



Journal of the House

State of Indiana

114th General Assembly

Second Regular Session

Thirteenth Meeting Day

Monday Morning

January 30, 2006

The House convened at 10:00 a.m. with Speaker Brian C. Bosma in the Chair.

The Pledge of Allegiance to the Flag was led by Representative Phyllis J. Pond and Boy Scout Troop 419 from Fort Wayne..

The Speaker ordered the roll of the House to be called:

| | |
|-------------|-------------|
| Aguilera | Koch |
| Austin | Kromkowski |
| Avery | Kuzman |
| Ayres | L. Lawson |
| Bardon | Lehe |
| Bauer | Leonard |
| Behning | J. Lutz |
| Bell | Mahern |
| Bischoff | Mays |
| Borders | McClain |
| Borror | Messer |
| C. Bottorff | Micon |
| Bright | Moses |
| C. Brown | Murphy |
| T. Brown | Neese |
| Buck | Noe |
| Budak | Orentlicher |
| Buell | Oxley |
| Burton | Pelath |
| Cheney | Pflum |
| Cherry | Pierce |
| Cochran | Pond |
| Crawford | Porter |
| Crooks | Reske |
| Crouch | Richardson |
| Davis | Ripley |
| Day | Robertson |
| Denbo | Ruppel |
| Dickinson | Saunders |
| Dobis | J. Smith |
| Dodge | V. Smith |
| Duncan | Stevenson |
| Dvorak | Stilwell |
| Espich | Stutzman |
| Foley | Summers |
| Friend | Thomas |
| Frizzell | Thompson |
| Fry | Tincher |
| GiaQuinta | Torr |
| Goodin | Turner |
| Grubb | Tyler |
| Gutwein | Ulmer |
| E. Harris | VanHaaften |
| T. Harris | Walorski |
| Heim | Welch |
| Hinkle | Whetstone |
| Hoffman | Wolkins |
| Hoy | Woodruff |
| Kersey | Yount |
| Klinker | Mr. Speaker |

Roll Call 92: 100 present. The Speaker announced a quorum in attendance.

[NOTE: Roll calls 90 and 91 were machine tests.]

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed Engrossed Senate Bill 321 and the same is herewith transmitted to the House for further action.

MARY C. MENDEL
Principal Secretary of the Senate

HOUSE BILLS ON SECOND READING

The following bills were called down by their respective authors, were read a second time by title, and, there being no amendments, were ordered engrossed: House Bills 1081, 1110, 1128, 1138, 1173, 1222, 1235, 1236, 1259, 1266, 1281, 1315, 1329, 1395, 1414, and 1420.

The House recessed until the fall of the gavel.

RECESS

The House reconvened at 3:00 p.m. with the Speaker in the Chair.

REPORTS FROM COMMITTEES

COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred House Bill 1398, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 17, delete "property containing a sign or billboard" and insert **"billboards that are within a dedicated public thoroughfare or interstate highway and"**.

Page 1, line 17, delete "displays" and insert **"display"**.

Page 2, delete lines 2 through 14.

Page 3, between lines 21 and 22, begin a new paragraph and insert: **"SECTION 4. IC 8-22-3-4.3, AS ADDED BY P.L.134-2005, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4.3. (a) This section applies only to the board of an airport authority that:**

(1) is not located in a county containing a consolidated city;

(2) is established by a city; and

(3) has entered into a federal interstate compact.

(b) The board of an airport authority described in subsection (a) consists of members appointed as follows:

(1) Four (4) members appointed by the executive of the city in which the airport is located. Not more than two (2) members appointed under this subdivision may be members of the same political party.

(2) One (1) member appointed by the executive of the county in which the airport is located.

(3) One (1) member appointed by the executive of the county (other than the county in which the airport is located) that is closest geographically to the airport.

(4) One (1) member appointed by the governor.

(c) A member of the board holds office for four (4) years and until the member's successor is appointed and qualified.

(d) If a vacancy occurs in the board, the authority that appointed the member that vacated the board shall appoint an individual to serve for the remainder of the unexpired term.

(e) A board member may be reappointed to successive terms.

(f) A board member may be impeached under the procedure

provided for the impeachment of county officers.

(g) **The board of an authority described in subsection (a) has jurisdiction over a district that consists of the combined area of:**

- (1) the county in which the airport is located; and**
- (2) the county (other than the county in which the airport is located) that is closest geographically to the airport.**

(h) Property taxes imposed under this chapter by the board of an authority described in subsection (a) apply at a uniform rate on all the taxable property in the district described in subsection (g)."

Page 3, between lines 38 and 39, begin a new line block indented and insert:

"(4) One (1) advisory member appointed by the county executive of a county that is not otherwise represented on the board and that is located not more than one thousand two hundred (1,200) feet from a certified air carrier airport that is owned or operated by the authority. The advisory member appointed under this subdivision:

(A) must be a resident of:

- (i) the county making the appointment; and**
- (ii) one (1) of the two (2) townships in the county located nearest to the airport;**

(B) may not vote on any matter before the board;

(C) serves at the pleasure of the appointing authority; and

(D) serves without compensation or payment for expenses."

Page 9, line 32, after "land" delete "," and insert **"within a dedicated public thoroughfare or interstate highway,"**.

Page 9, after line 40, begin a new paragraph and insert:

"SECTION 9. [EFFECTIVE JULY 1, 2006] IC 8-22-3-4.3, as amended by this act, applies only to property taxes first due and payable after December 31, 2006."

Renumber all SECTIONS consecutively.

(Reference is to HB 1398 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 7, nays 0.

HINKLE, Chair

Report adopted.

HOUSE BILLS ON SECOND READING

House Bill 1028

Representative Koch called down House Bill 1028 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1028-1)

Mr. Speaker: I move that House Bill 1028 be amended to read as follows:

Page 3, delete lines 10 through 17, begin a new paragraph and insert:

"Sec. 2. (a) Notwithstanding any other law and except as provided in subsection (b), a person may not adopt or enforce a policy or rule that prohibits or has the effect of prohibiting an individual from possessing:

(1) a loaded or unloaded handgun; or

(2) an unloaded rifle or shotgun;

that is locked in the individual's motor vehicle while the motor vehicle is in or on the person's property."

(Reference is to HB 1028 as printed January 26, 2006.)

KOCH

Motion prevailed.

Representatives Dvorak and Tincher rose to a point of order suggesting the absence of a quorum.

The Speaker ordered the roll of the House to be called. A quorum was not present. The Speaker announced that the machine would remain open to allow additional members to indicate their presence.

At 4:13 p.m. the Speaker ordered the roll to be tallied. Roll Call 93: 71 present. The Speaker announced a quorum in attendance.

The second reading of House Bill 1028 was pending.

With consent of the members, the House reconsidered adoption of the motion of Representative Koch (1028-1). Motion prevailed. The bill was ordered engrossed.

House Bill 1029

Representative Buell called down House Bill 1029 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1029-1)

Mr. Speaker: I move that House Bill 1029 be amended to read as follows:

Page 16, between lines 24 and 25, begin a new paragraph and insert:

"SECTION 7. IC 20-12-6-8.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8.5. (a) Any corporation that has entered into a written contract for a grant, pending the receipt of the grant, but within the limitations set forth in this section, may borrow from any person and evidence the debt by a note or a series of notes of equal or unequal amounts containing such terms and conditions as the governing board of the corporation prescribes. Any note may pledge, for the payment of the principal and interest thereof, the proceeds of the grant and any revenue that may be derived from the building facility being constructed, acquired, renovated, or improved by the proceeds of the note or notes.

(b) A loan made under this section may not exceed ~~eighty percent (80%)~~ of the estimated amount of the grant in anticipation of which the loan is made. Further, the corporation shall make prepayments of the outstanding balance of its note or retire one (1) or more of its series of outstanding notes promptly upon partial receipt of grant funds. ~~so that the outstanding amount of any loan made under this section does not exceed the balance of the grant funds yet to be received:~~

(c) The notes shall be executed in the same manner as provided for bonds in section 8 of this chapter, and the notes shall be sold in the same manner as provided for bonds in section 7 of this chapter.

(d) The governing board of the corporation shall apply the proceeds of any notes issued under this section to those items of cost for which the grant has been allocated by the granting agencies. The purchaser of any notes is not liable for any improper use of the proceeds, and the purchaser does not have to insure that the amount of the loan stays within the maximum limits as grant funds are from time to time received by the corporation.

(e) As used in this section, "grant" means any ~~money received~~ agreement for any combination of grants, gifts, or pledges:

(1) to or for the benefit of a corporation from:

(A) the United States government or any of its agencies;

(B) the state of Indiana or any of its agencies; or ~~from~~

(C) any private ~~person~~, corporation, trust, or foundation; and

(2) to be used ~~for~~ in connection with the acquisition, improvement, renovation, ~~or~~ construction, or support of building facilities that the corporation may lawfully undertake."

Page 17, line 18, delete "(i)," and insert **"(h),"**.

Page 19, delete lines 6 through 25.

Renumber all SECTIONS consecutively.

(Reference is to HB 1029 as printed January 27, 2006.)

BUELL

Motion prevailed.

HOUSE MOTION
(Amendment 1029-5)

Mr. Speaker: I move that House Bill 1029 be amended to read as follows:

Page 3, delete lines 8 through 42.

Delete pages 4 through 9.

Page 10, delete lines 1 through 11.

Page 22, line 13, delete **"(a) IC 6-3-1-3.5,"**.

Page 22, delete lines 14 through 15.

Page 22, line 16, delete **"(b)"**.

Page 22, run in lines 13 through 16.

Renumber all SECTIONS consecutively.

(Reference is to HB 1029 as printed January 27, 2006.)

THOMPSON

Motion prevailed.

HOUSE MOTION
(Amendment 1029-3)

Mr. Speaker: I move that House Bill 1029 be amended to read as follows:

Page 10, line 16, after "IC 21-9" insert **"or another qualified tuition program that is exempt from federal income taxation under Section 529 of the Internal Revenue Code"**.

(Reference is to HB 1029 as printed January 27, 2006.)

BARDON

Motion prevailed.

HOUSE MOTION
(Amendment 1029-2)

Mr. Speaker: I move that House Bill 1029 be amended to read as follows:

Page 10, between lines 25 and 26, begin a new paragraph and insert:

"SECTION 3. IC 6-3-2-21 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)]: **Sec. 21. (a) As used in this section, "student loan" refers to a qualified education loan (as defined in Section 221 of the Internal Revenue Code).**

(b) Subject to subsection (d), in each taxable year, an individual who is obligated to repay a student loan may deduct in computing the individual's adjusted gross income the amount determined under STEP TWELVE of the following formula:

STEP ONE: Determine the total amount of payments paid by the individual with respect to the individual's student loans during the taxable year.

STEP TWO: Determine the part of the STEP ONE result that is attributable to interest and other financing charges.

STEP THREE: Subtract the STEP TWO result from the STEP ONE result to determine the part of the STEP ONE result attributable to principal.

STEP FOUR: Determine the part of the STEP TWO result deducted by the individual in computing the individual's federal adjusted gross income under Section 62 of the Internal Revenue Code.

STEP FIVE: Subtract the STEP FOUR result from the STEP TWO result.

STEP SIX: Determine the initial outstanding principal balance on the student loan as of the expiration of the most recent grace period following the final date of attendance at the most recently attended institution of higher education. In the case of a husband and wife filing a joint return, determine this amount independently for each individual, and add the two (2) amounts.

STEP SEVEN: Determine the part of the STEP SIX amount deducted by the individual in computing the individual's federal adjusted gross income under Section 62 of the Internal Revenue Code in the current and any prior taxable years.

STEP EIGHT: Divide the STEP SEVEN result by the STEP SIX result, rounding to the nearest one thousandth (0.001).

STEP NINE: Subtract the STEP EIGHT result from one (1).

STEP TEN: Multiply the STEP THREE result by the STEP NINE result.

STEP ELEVEN: Add the STEP FIVE result and the STEP TEN result.

STEP TWELVE: Determine the lesser of the following:

(A) The STEP ELEVEN result.

(B) Three thousand dollars (\$3,000).

(c) A husband and wife filing a joint adjusted gross income tax return for a particular taxable year may not claim a deduction under this section of more than three thousand dollars (\$3,000) in any taxable year.

(d) An individual may not claim the deduction provided by this section for more than ten (10) taxable years during the individual's lifetime. For purposes of applying this subsection to

an individual who files a joint return with the individual's spouse, the question of whether a joint return counts toward each spouse's lifetime allotment is determined independently for each spouse with reference to the underlying student loan. A joint return on which the deduction provided by this section is claimed counts towards a spouse's lifetime allotment only to the extent that the spouse is obligated to repay some part of the underlying student loan payments that are being deducted."

Page 22, between lines 12 and 13, begin a new paragraph and insert:

"SECTION 15. [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)] **IC 6-3-2-21, as added by this act, applies only to taxable years beginning after December 31, 2005."**

Renumber all SECTIONS consecutively.

(Reference is to HB 1029 as printed January 27, 2006.)

VAN HAAFTEN

Upon request of Representatives VanHaaften and Dvorak, the Speaker ordered the roll of the House to be called. Roll Call 94: yeas 49, nays 49. Motion failed. The bill was ordered engrossed.

House Bill 1062

Representative Hinkle called down House Bill 1062 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

House Bill 1080

Representative Stutzman called down House Bill 1080 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1080-3)

Mr. Speaker: I move that House Bill 1080 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 16-21-2-2, AS AMENDED BY P.L.96-2005, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 2.** The state department shall license and regulate:

- (1) hospitals;
- (2) ambulatory outpatient surgical centers;
- (3) birthing centers; ~~and~~
- (4) abortion clinics; ~~and~~
- (5) pregnancy counseling centers.**

SECTION 2. IC 16-21-2-2.5, AS ADDED BY P.L.96-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2.5. (a) The state department shall adopt rules under IC 4-22-2 to do the following concerning birthing centers, ~~and~~ abortion clinics, and pregnancy counseling centers:

- (1) Establish minimum license qualifications.
- (2) Establish the following requirements:
 - (A) Sanitation standards.
 - (B) Staff qualifications.
 - (C) Necessary emergency equipment.
 - (D) Procedures to provide emergency care.
 - (E) Quality assurance standards.
 - (F) Infection control.
- (3) Prescribe the operating policies, supervision, and maintenance of medical records.
- (4) Establish procedures for the issuance, renewal, denial, and revocation of licenses under this chapter. The rules adopted under this subsection must address the following:
 - (A) The form and content of the license.
 - (B) The collection of an annual license fee.
- (5) Prescribe the procedures and standards for inspections.

(b) A person who knowingly or intentionally:

- (1) operates a birthing center, ~~or~~ an abortion clinic, ~~or~~ a pregnancy counseling center that is not licensed under this chapter; or
- (2) advertises the operation of a birthing center, ~~or~~ an abortion clinic, ~~or~~ a pregnancy counseling center that is not licensed under this chapter;

commits a Class A misdemeanor."

Page 1, line 4, after "clinic" insert **"or pregnancy counseling center"**.

Page 1, line 5, after "clinic" insert **"or pregnancy counseling center"**.

Page 1, line 6, after "clinic" insert **"or pregnancy counseling center"**.

Page 1, line 11, after "clinic" insert **"or pregnancy counseling center"**.

Page 1, line 12, after "clinic" insert **"or pregnancy counseling center"**.

Page 1, line 14, after "clinic" insert **"or pregnancy counseling center"**.

Page 1, line 15, delete "clinic." and insert **"clinic or pregnancy counseling center."**.

Page 1, line 16, after "clinic" insert **"or pregnancy counseling center"**.

Page 2, line 4, after "clinic" insert **"or pregnancy counseling center"**.

Page 2, line 7, after "clinic" insert **"or pregnancy counseling center"**.

Page 3, line 16, after "clinic" insert **"or pregnancy counseling center"**.

Page 3, line 26, delete "clinic;" and insert **"clinic or pregnancy counseling center;"**.

Page 4, line, 14, after "clinic" insert **"or pregnancy counseling center"**.

Page 4, line 17, after "clinic" insert **"or pregnancy counseling center"**.

Page 4, line 20, after "clinic" insert **"or pregnancy counseling center"**.

Page 4, line 24, after "clinic" insert **"or pregnancy counseling center"**.

Page 4, line 27, after "clinic" insert **"or pregnancy counseling center"**.

Page 4, after line 31, begin a new paragraph and insert:
"SECTION 4. [EFFECTIVE JULY 1, 2006] (a) As used in this SECTION, "state department" refers to the state department of health.

(b) The state department shall, not later than December 31, 2006, establish licensing procedures and requirements for the licensure of pregnancy counseling centers as required under IC 16-21-2-2.5, as amended by this act.

(c) A pregnancy counseling center shall, not later than July 1, 2007:

(1) obtain the license required; and

(2) meet the requirements established;

by the state department under IC 16-21-2-2.5, as amended by this act.

(d) This SECTION expires December 31, 2007."

Renumber all SECTIONS consecutively.

(Reference is to HB 1080 as printed January 27, 2006.)

KUZMAN

Representative Whetstone rose to a point of order, citing Rule 80, stating that the motion was not germane to the bill. After discussion, Representative Whetstone withdrew the point of order.

The question then was on the motion of Representative Kuzman (1080-3). Motion failed.

HOUSE MOTION (Amendment 1080-1)

Mr. Speaker: I move that House Bill 1080 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 16-18-2-122 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 122. (a) "Facility", for purposes of IC 16-21-2 refers to the following:

(1) An abortion clinic (as defined in IC 16-18-2-1.5).

(2) An ambulatory outpatient surgical center (as defined in IC 16-18-2-14), including facilities for ophthalmological surgery.

(b) "Facility", for purposes of IC 16-41-11, has the meaning set

forth in IC 16-41-11-2."

Page 1, line 4, after "plant of" insert ":

(1)".

Page 1, line 5, delete "." and insert "; and

(2) an ambulatory outpatient surgical center must meet the condition of this section for the surgical facility to be licensed under IC 16-21-2."

Page 1, line 6, delete "clinic" and insert "facility".

Page 1, line 11, delete "an abortion clinic" and insert "a facility".

Page 1, line 11, after "another" insert "health care".

Page 1, line 12, delete "clinic" and insert "facility".

Page 1, line 14, delete "clinic" and insert "facility".

Page 1, line 15, delete "clinic." and insert "facility."

Page 1, line 16, delete "clinic" and insert "facility".

Page 2, line 4, delete "clinic" and insert "facility".

Page 2, line 7, delete "clinic;" and insert "facility;"

Page 3, line 16, delete "clinic" and insert "facility".

Page 3, line 26, delete "clinic;" and insert "facility;"

Page 4, after line 31, begin a new paragraph and insert:

"SECTION 4. [EFFECTIVE JULY 1, 2006] (a) For purposes of this SECTION, "center" refers to an ambulatory outpatient surgical center as defined in IC 16-18-2-14, including a facility for ophthalmological surgery.

(b) For purposes of this SECTION "department" refers to the department of health established by IC 16-19-1-1.

(c) Before August 1, 2006, the department shall survey the physical plant of each center that is licensed under IC 16-21-2 and the rules of the department. The department shall determine and list the features of the physical plant of a center that are not in compliance with rules adopted by the department under IC 16-21-2.

(d) Before September 1, 2006, the department shall provide notice to each center found not to be in compliance with rules adopted by the department under IC 16-21-2, informing the center of the features found not to be in compliance after the completion of the survey conducted under subsection (c).

(e) Before January 1, 2007, the department shall reinspect each center that received notice under subsection (d) to determine if the features not in compliance with rules adopted by the department under IC 16-21-2 have been corrected.

(f) The department shall revoke the license of a center that has received notice under subsection (d) and has not remedied the feature not in compliance with rules adopted by the department under IC 16-21-2, as noted in the reinspection under subsection (e)."

Renumber all SECTIONS consecutively.

(Reference is to HB 1080 as printed January 27, 2006.)

ORENTLICHER

Motion failed.

HOUSE MOTION (Amendment 1080-2)

Mr. Speaker: I move that House Bill 1080 be amended to read as follows:

Page 4, between lines 9 and 10, begin a new paragraph and insert:
"SECTION 2. IC 16-41-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. The state department must provide **medically accurate** information stressing the moral aspects of abstinence from sexual activity in any literature that the state department distributes to school children and young adults concerning available methods for the prevention of acquired immune deficiency syndrome (AIDS). Such literature must state that the best way to avoid AIDS is for young people to refrain from sexual activity until the young people are ready as adults to establish, in the context of marriage, a mutually faithful monogamous relationship.

SECTION 3. IC 16-46-10-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. (a) Funding provided a local board of health under section 2 of this chapter may be used by the local board to provide any of the following services:

(1) Animal and vector control.

(2) Communicable disease control, including immunizations.

(3) Food sanitation.

(4) Environmental health.

- (5) **Medically accurate** health education.
- (6) Laboratory services.
- (7) Maternal and child health services, including prenatal clinics and well-child clinics.
- (8) Nutrition services.
- (9) Public health nursing, including home nursing visitation and vision and hearing screening.
- (10) Vital records.

(b) Money granted a local board of health from the local health maintenance fund may not be used for any purpose other than for the services listed in this section.

SECTION 4. IC 20-20-5-6, AS ADDED BY P.L.1-2005, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. (a) In 2008 and every sixth year thereafter, the state board shall adopt and contract for textbooks for each subject under the classification of social studies.

(b) In 2009 and every sixth year thereafter, the state board shall adopt and contract for textbooks for each subject under the classification of mathematics.

(c) In 2010 and every sixth year thereafter, the state board shall adopt and contract for textbooks for each subject under the classification of science and **medically accurate** health education.

(d) In 2005 and every sixth year thereafter, the state board shall adopt and contract for textbooks for each subject under the classification of miscellaneous.

(e) In 2006 and every sixth year thereafter, the state board shall adopt and contract for textbooks for each subject under the classification of language arts/reading and handwriting.

(f) In 2007 and every sixth year thereafter, the state board shall adopt and contract for textbooks for each subject under the following classifications:

- (1) Language arts/English, spelling, and literature.
- (2) Foreign languages.

SECTION 5. IC 20-26-15-8, AS ADDED BY P.L.1-2005, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. (a) The contract must contain the following provisions:

- (1) A list of the statutes and rules that are suspended from operation in a freeway school corporation or freeway school, as listed in section 5 of this chapter.
- (2) A description of the privileges of a freeway school corporation or freeway school, as listed in section 6 of this chapter.
- (3) A description of the educational benefits listed in section 7 of this chapter that a freeway school corporation or freeway school agrees to:

- (A) achieve by the end of five (5) complete school years after the contract is signed; and
- (B) maintain at the end of:
 - (i) the sixth; and
 - (ii) any subsequent;

complete school year after the contract is signed.

- (4) A plan and a schedule for the freeway school corporation or freeway school to achieve the educational benefits listed in section 7 of this chapter by the end of five (5) complete school years after the contract is signed. The schedule must show some percentage of improvement by the end of the second, third, and fourth complete school years after the contract is signed.
- (5) A school by school strategy, including curriculum, in which character education is demonstrated to be a priority. The strategy required under this subdivision must include the following subjects as integral parts of each school's character education:

- (A) Hygiene.
- (B) Alcohol and drugs.
- (C) Diseases transmitted sexually or through drug use, including AIDS.
- (D) Honesty.
- (E) Respect.
- (F) Abstinence and restraint.

The instruction under clauses (A), (B), (C), and (F) must be medically accurate.

- (6) A plan under which the freeway school corporation or

freeway school will offer courses that will allow a student to become eligible to receive an academic honors diploma.

- (7) A plan under which the freeway school corporation or freeway school will maintain a safe and disciplined learning environment for students and teachers.

(b) In the contract:

- (1) the quantitative measures of benefits may be higher, but not lower, than the minimum educational benefits listed in section 7 of this chapter; and
- (2) educational benefits may be included in addition to the minimum educational benefits listed in section 7 of this chapter.

SECTION 6. IC 20-30-5-7, AS ADDED BY P.L.1-2005, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 7. Each school corporation shall include in the school corporation's curriculum the following studies:

- (1) Language arts, including:

- (A) English;
- (B) grammar;
- (C) composition;
- (D) speech; and
- (E) second languages.

- (2) Mathematics.

- (3) Social studies and citizenship, including the:

- (A) constitutions;
- (B) governmental systems; and
- (C) histories;

of Indiana and the United States.

- (4) Sciences.

- (5) Fine arts, including music and art.

- (6) **Medically accurate** health education, physical fitness, safety, and the effects of alcohol, tobacco, drugs, and other substances on the human body.

- (7) Additional studies selected by each governing body, subject to revision by the state board.

SECTION 7. IC 20-34-1-13, AS ADDED BY P.L.1-2005, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 13. The council shall do the following:

- (1) Identify and study **medically accurate** educational materials and resources on AIDS that are available for use in the schools within the school corporation.

- (2) Determine which educational materials and resources are based on sound medical principles and reflect the attitude of the community.

- (3) Recommend to the school corporation educational materials and resources on AIDS that reflect the standards of the community.

SECTION 8. IC 20-34-3-17, AS ADDED BY P.L.1-2005, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 17. (a) The state board shall provide **medically accurate** information stressing the moral aspects of abstinence from sexual activity in any literature that it distributes to students and young adults concerning available methods for the prevention of acquired immune deficiency syndrome (AIDS). The literature must state that the best way to avoid AIDS is for young people to refrain from sexual activity until they are ready as adults to establish, in the context of marriage, a mutually faithful monogamous relationship.

(b) The state board may not distribute AIDS literature described in subsection (a) to students without the consent of the governing body of the school corporation the students attend."

Renumber all SECTIONS consecutively.

(Reference is to HB 1080 as printed January 27, 2006.)

PORTER

Representative Whetstone rose to a point of order, citing Rule 80, stating that the motion was not germane to the bill. The Speaker ruled the point was well taken and the motion was out of order.

There being no further amendments, the bill was ordered engrossed.

House Bill 1089

Representative J. Lutz called down House Bill 1089 for second

reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1089-1)

Mr. Speaker: I move that House Bill 1089 be amended to read as follows:

Page 3, after line 14, begin a new paragraph and insert:

"SECTION 2. IC 36-4-3-11, AS AMENDED BY P.L.111-2005, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 11. (a) Except as provided in section 5.1(i) of this chapter and subsections (d) and (e), whenever territory is annexed by a municipality under this chapter, the annexation may be appealed by filing with the circuit or superior court of a county in which the annexed territory is located a written remonstrance signed by:

- (1) ~~at least sixty-five percent (65%) more than fifty percent (50%)~~ of the owners of land in the annexed territory; or
- (2) the owners of more than ~~seventy-five percent (75%)~~ **sixty-five percent (65%)** in assessed valuation of the land in the annexed territory.

The remonstrance must be filed within ninety (90) days after the publication of the annexation ordinance under section 7 of this chapter, must be accompanied by a copy of that ordinance, and must state the reason why the annexation should not take place.

(b) On receipt of the remonstrance, the court shall determine whether the remonstrance has the necessary signatures. In determining the total number of landowners of the annexed territory and whether signers of the remonstrance are landowners, the names appearing on the tax duplicate for that territory constitute prima facie evidence of ownership. Only one (1) person having an interest in each single property, as evidenced by the tax duplicate, is considered a landowner for purposes of this section.

(c) If the court determines that the remonstrance is sufficient, it shall fix a time, within sixty (60) days of its determination, for a hearing on the remonstrance. Notice of the proceedings, in the form of a summons, shall be served on the annexing municipality. The municipality is the defendant in the cause and shall appear and answer.

(d) If an annexation is initiated by property owners under section 5.1 of this chapter and all property owners within the area to be annexed petition the municipality to be annexed, a remonstrance to the annexation may not be filed under this section.

(e) This subsection applies if:

- (1) the territory to be annexed consists of not more than one hundred (100) parcels; and
- (2) eighty percent (80%) of the boundary of the territory proposed to be annexed is contiguous to the municipality.

An annexation may be appealed by filing with the circuit or superior court of a county in which the annexed territory is located a written remonstrance signed by at least seventy-five percent (75%) of the owners of land in the annexed territory as determined under subsection (b).

SECTION 2. IC 36-4-3-13, AS AMENDED BY P.L.111-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 13. (a) Except as provided in subsections (e) and (g), at the hearing under section 12 of this chapter, the court shall order a proposed annexation to take place if the following requirements are met:

- (1) The requirements of either subsection (b) or (c).
- (2) The requirements of subsection (d).

(b) The requirements of this subsection are met if the evidence establishes the following:

- (1) That the territory sought to be annexed is contiguous to the municipality.
- (2) One (1) of the following:
 - (A) The resident population density of the territory sought to be annexed is at least three (3) persons per acre.
 - (B) Sixty percent (60%) of the territory is subdivided.
 - (C) The territory is zoned for commercial, business, or industrial uses.

(c) The requirements of this subsection are met if the evidence establishes the following:

- (1) That the territory sought to be annexed is contiguous to the

municipality as required by section 1.5 of this chapter, except that at least one-fourth (1/4), instead of one-eighth (1/8), of the aggregate external boundaries of the territory sought to be annexed must coincide with the boundaries of the municipality. (2) That the territory sought to be annexed is needed and can be used by the municipality for its development in the reasonably near future.

(d) The requirements of this subsection are met if the evidence establishes that the municipality has developed and adopted a written fiscal plan and has established a definite policy, by resolution of the legislative body as set forth in section 3.1 of this chapter. The fiscal plan must show the following:

- (1) The cost estimates of planned services to be furnished to the territory to be annexed. The plan must present itemized estimated costs for each municipal department or agency.
- (2) The method or methods of financing the planned services. The plan must explain how specific and detailed expenses will be funded and must indicate the taxes, grants, and other funding to be used.
- (3) The plan for the organization and extension of services. The plan must detail the specific services that will be provided and the dates the services will begin.
- (4) That planned services of a noncapital nature, including police protection, fire protection, street and road maintenance, and other noncapital services normally provided within the corporate boundaries, will be provided to the annexed territory within one (1) year after the effective date of annexation and that they will be provided in a manner equivalent in standard and scope to those noncapital services provided to areas within the corporate boundaries regardless of similar topography, patterns of land use, and population density.
- (5) That services of a capital improvement nature, including street construction, street lighting, sewer facilities, water facilities, and stormwater drainage facilities, will be provided to the annexed territory within three (3) years after the effective date of the annexation in the same manner as those services are provided to areas within the corporate boundaries, regardless of similar topography, patterns of land use, and population density, and in a manner consistent with federal, state, and local laws, procedures, and planning criteria.

(e) At the hearing under section 12 of this chapter, the court shall do the following:

- (1) Consider evidence on the conditions listed in subdivision (2).
- (2) Order a proposed annexation not to take place if the court finds that all of the conditions set forth in clauses (A) through (D) and, if applicable, clause (E) exist in the territory proposed to be annexed:
 - (A) The following services are adequately furnished by a provider other than the municipality seeking the annexation:
 - (i) Police and fire protection.
 - (ii) Street and road maintenance.
 - (B) The annexation will have a significant financial impact on the residents or owners of land.
 - (C) The annexation is not in the best interests of the owners of land in the territory proposed to be annexed as set forth in subsection (f).
 - (D) One (1) of the following opposes the annexation:
 - (i) ~~At least sixty-five percent (65%) more than fifty percent (50%)~~ of the owners of land in the territory proposed to be annexed.
 - (ii) The owners of more than ~~seventy-five percent (75%)~~ **sixty-five percent (65%)** in assessed valuation of the land in the territory proposed to be annexed.

Evidence of opposition may be expressed by any owner of land in the territory proposed to be annexed. (E) This clause applies only to an annexation in which eighty percent (80%) of the boundary of the territory proposed to be annexed is contiguous to the municipality and the territory consists of not more than one hundred (100) parcels. At least seventy-five percent (75%) of the owners of land in the territory proposed to be annexed oppose the annexation as determined under section 11(b) of this chapter.

(f) The municipality under subsection (e)(2)(C) bears the burden of proving that the annexation is in the best interests of the owners of land in the territory proposed to be annexed. In determining this issue, the court may consider whether the municipality has extended sewer or water services to the entire territory to be annexed:

- (1) within the three (3) years preceding the date of the introduction of the annexation ordinance; or
- (2) under a contract in lieu of annexation entered into under IC 36-4-3-21.

The court may not consider the provision of water services as a result of an order by the Indiana utility regulatory commission to constitute the provision of water services to the territory to be annexed.

(g) This subsection applies only to cities located in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000). However, this subsection does not apply if on April 1, 1993, the entire boundary of the territory that is proposed to be annexed was contiguous to territory that was within the boundaries of one (1) or more municipalities. At the hearing under section 12 of this chapter, the court shall do the following:

- (1) Consider evidence on the conditions listed in subdivision (2).
- (2) Order a proposed annexation not to take place if the court finds that all of the following conditions exist in the territory proposed to be annexed:
 - (A) The following services are adequately furnished by a provider other than the municipality seeking the annexation:
 - (i) Police and fire protection.
 - (ii) Street and road maintenance.
 - (B) The annexation will have a significant financial impact on the residents or owners of land.
 - (C) One (1) of the following opposes the annexation:
 - (i) A majority of the owners of land in the territory proposed to be annexed.
 - (ii) The owners of more than seventy-five percent (75%) in assessed valuation of the land in the territory proposed to be annexed.

Evidence of opposition may be expressed by any owner of land in the territory proposed to be annexed.

- (h) The most recent:
 - (1) federal decennial census;
 - (2) federal special census;
 - (3) special tabulation; or
 - (4) corrected population count;

shall be used as evidence of resident population density for purposes of subsection (b)(2)(A), but this evidence may be rebutted by other evidence of population density."

(Reference is to HB 1089 as printed January 27, 2006.)

ORENTLICHER

Upon request of Representatives Orentlicher and Dvorak, the Speaker ordered the roll of the House to be called. Roll Call 95: yeas 37, nays 57. Motion failed. The bill was ordered engrossed.

House Bill 1090

Representative Tincher called down House Bill 1090 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

House Bill 1113

Representative Foley called down House Bill 1113 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

House Bill 1117

Representative Wolkins called down House Bill 1117 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1117-3)

Mr. Speaker: I move that House Bill 1117 be amended to read as follows:

Page 5, between lines 9 and 10, begin a new paragraph and insert: "SECTION 8. IC 13-21-13-1 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) A board may impose fees on the disposal of solid waste in a final disposal facility located within the district. A fee imposed by a board in a county with a population of more than one hundred ten thousand (110,000) but less than one hundred fifteen thousand (115,000) under this section may not exceed two dollars and fifty cents (\$2.50) a ton. **A fee imposed by a board may not exceed six dollars (\$6) a ton at a landfill that is located in a county that does not zone under IC 36-7-4 and is permitted after January 1, 2006.** A fee imposed by a board in other counties under this section may not exceed:

- (1) two dollars and fifty cents (\$2.50) a ton; or
- (2) the amount of a fee imposed by the board;
 - (A) under this section; and
 - (B) in effect on January 1, 1993;

whichever is greater.

(b) The board shall do the following:

- (1) Set the amount of fees imposed under this section after a public hearing.
- (2) Give public notice of the hearing.

(c) If solid waste has been subject to a district fee under this section, the total amount of the fee that was paid shall be credited against a district fee to which the solid waste may later be subject under this section.

(d) Except as provided in section 4 of this chapter, fees imposed under this chapter shall be imposed uniformly on public facilities and on privately owned or operated facilities throughout the district.

(e) A resolution adopted by a board that establishes fees under this chapter may contain a provision that authorizes the board to impose a penalty of not more than five hundred dollars (\$500) per day because of:

- (1) nonpayment of fees; or
- (2) noncompliance with a condition in the resolution.

(f) A board may not impose fees for material used as alternate daily cover pursuant to a permit issued by the department under 329 IAC 10-20-13.

SECTION 9. IC 13-22-9-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. The amount of financial responsibility a person must establish under section 1 of this chapter for a hazardous waste landfill or a solid waste landfill must:

(1) be the greater of:

- (A) fifteen thousand dollars (\$15,000) for each acre or part of an acre covered by the hazardous waste landfill or solid waste landfill **or thirty thousand dollars (\$30,000) for each acre or part of an acre covered by a solid waste landfill that is:**

- (i) **located in a county that does not zone under IC 36-7-4; and**
- (ii) **permitted after January 1, 2006; or**

(B) an amount determined by the commissioner that is sufficient to close the hazardous waste landfill or solid waste landfill in a manner that:

- (i) minimizes the need for further maintenance; and
- (ii) provides reasonable, foreseeable, and necessary maintenance during postclosure; and

(2) provide assurance of proper postclosure maintenance and monitoring for at least thirty (30) years after the hazardous waste landfill or solid waste landfill has ceased operations."

Renumber all SECTIONS consecutively.

(Reference is to HB 1117 as printed January 25, 2006.)

GRUBB

Motion prevailed. The bill was ordered engrossed.

House Bill 1124

Representative Buck called down House Bill 1124 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

House Bill 1136

Representative Burton called down House Bill 1136 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

House Bill 1140

Representative Leonard called down House Bill 1140 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1140-1)

Mr. Speaker: I move that House Bill 1140 be amended to read as follows:

Page 7, between lines 10 and 11, begin a new paragraph and insert: "SECTION 4. IC 6-1.1-33.5-8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 8. (a) The division of data analysis of the department of local government finance shall annually prepare a report concerning the total amount of property tax abatements provided in Indiana during the previous calendar year.**

(b) The division shall adopt rules under IC 4-22-2 specifying the manner and time in which county auditors and local designating bodies shall report to the division any information required by the division to prepare the report under this section.

(c) The division shall adopt rules under IC 4-22-2 specifying the manner in which the information in the report under this section is provided to the owners of residential property and other taxpayers."

Renumber all SECTIONS consecutively.

(Reference is to HB 1140 as printed January 27, 2006.)

PELATH

Upon request of Representatives Pelath and Stilwell, the Speaker ordered the roll of the House to be called. Roll Call 96: yeas 47, nays 51. Motion failed.

HOUSE MOTION
(Amendment 1140-2)

Mr. Speaker: I move that House Bill 1140 be amended to read as follows:

Page 7, between lines 10 and 11, begin a new paragraph and insert: "SECTION 4. IC 6-1.1-31-7, AS AMENDED BY P.L.214-2005, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 7. (a) Subject to subsection (e),** with respect to the assessment of personal property, the rules of the department of local government finance shall provide for the classification of personal property on the basis of:

- (1) date of purchase;
- (2) location;
- (3) use;
- (4) depreciation, obsolescence, and condition; and
- (5) any other factor that the department determines by rule is just and proper.

(b) Subject to subsection (e), with respect to the assessment of personal property, the rules of the department of local government finance shall include instructions for determining:

- (1) the proper classification of personal property;
- (2) the effect that location has on the value of personal property;
- (3) the cost of reproducing personal property;
- (4) the depreciation, including physical deterioration and obsolescence, of personal property;
- (5) the productivity or earning capacity of mobile homes regularly used to rent or otherwise furnish residential accommodations for periods of thirty (30) days or more;
- (6) the true tax value of mobile homes assessed under IC 6-1.1-7 (other than mobile homes subject to the preferred valuation method under IC 6-1.1-4-39(b)) as the least of the values determined using the following:

(A) The National Automobile Dealers Association Guide.

(B) The purchase price of a mobile home if:

- (i) the sale is of a commercial enterprise nature; and
- (ii) the buyer and seller are not related by blood or marriage.

(C) Sales data for generally comparable mobile homes;

- (7) the true tax value at the time of acquisition of computer application software, for the purpose of deducting the value of computer application software from the acquisition cost of tangible personal property whenever the value of the tangible

personal property that is recorded on the taxpayer's books and records reflects the value of the computer application software; and

(8) the true tax value of personal property based on the factors listed in this subsection and any other factor that the department determines by rule is just and proper.

(c) In providing for the classification of personal property and the instructions for determining the items listed in subsection (b), the department of local government finance shall not include the value of land as a cost of producing tangible personal property subject to assessment.

(d) **Except as provided in subsection (e),** with respect to the assessment of personal property, true tax value does not mean fair market value. Subject to this article, true tax value is the value determined under rules of the department of local government finance.

(e) The department of local government finance:

(1) may not establish by rule a minimum valuation method for agricultural personal property that applies the method for more than thirteen (13) years after the year in which the property is acquired; and

(2) shall establish by rule a valuation method for agricultural personal property that:

(A) applies to the property for each year that is more than thirteen (13) years after the year in which the property is acquired; and

(B) requires valuation of the property at the property's fair market value."

Page 14, between lines 40 and 41, begin a new paragraph and insert:

"SECTION 18. [EFFECTIVE UPON PASSAGE] **(a) Before March 1, 2007, the department of local government finance shall:**

(1) amend 329 IAC 11-9-5 so that the rule is consistent with IC 6-1.1-31-7(e)(1), as added by this act; and

(2) adopt a rule as required by IC 6-1.1-31-7(e)(2), as added by this act.

(b) This SECTION expires March 1, 2007.

SECTION 19. [EFFECTIVE JULY 1, 2006] **IC 6-1.1-31-7, as amended by this act, applies only to property taxes first due and payable after December 31, 2007."**

Renumber all SECTIONS consecutively.

(Reference is to HB 1140 as printed January 27, 2006.)

GRUBB

Motion prevailed.

HOUSE MOTION
(Amendment 1140-3)

Mr. Speaker: I move that House Bill 1140 be amended to read as follows:

Page 6, line 5, delete "2005" and insert "2006".

Page 7, line 12, delete "JULY 1, 2006" and insert "JANUARY 1, 2007".

Page 9, line 3, delete "JULY 1, 2006" and insert "JANUARY 1, 2007".

Page 9, line 19, delete "JULY 1, 2006" and insert "JANUARY 1, 2007".

Page 9, line 29, delete "JULY 1, 2006" and insert "JANUARY 1, 2007".

Page 10, line 1, delete "JULY 1, 2006" and insert "JANUARY 1, 2007".

Page 10, line 31, delete "JULY 1, 2006" and insert "JANUARY 1, 2007".

Page 10, line 42, delete "2006" and insert "2007".

Page 11, line 1, delete "(RETROACTIVE)".

Page 11, line 3, delete "JULY 1, 2006" and insert "JANUARY 1, 2007".

Page 11, line 7, delete "IC 6-1.1-12" and insert "**IC 6-1.1-12.1**".

Page 12, line 5, after "taxpayer's" insert "**applications for deductions**".

Page 12, line 14, delete "application" and insert "**applications**".

Page 12, line 16, delete "The taxpayer" and insert "**The department**".

(Reference is to HB 1140 as printed January 27, 2006.)

LEONARD

Motion prevailed. The bill was ordered engrossed.

House Bill 1172

Representative T. Harris called down House Bill 1172 for second reading. The bill was read a second time by title.

HOUSE MOTION (Amendment 1172-1)

Mr. Speaker: I move that House Bill 1172 be amended to read as follows:

Page 2, line 17, delete "and".

Page 2, line 19, delete "that" and insert **"is not medically possible until the fetus"**.

Page 2, line 22, after "insurance." insert **"However, if medical practice changes to allow for the option of a fetus to receive anesthetic or painkilling medication earlier than at the gestation age of twenty (20) weeks, the provider shall inform the woman of this option; and"**.

Page 2, between lines 22 and 23, begin a new line triple block indented and insert:

"(iii) option of providing during an abortion an anesthetic or other painkilling medication to a fetus that has a probable gestation age of at least twenty (20) weeks and that this service may or may not be covered by insurance."

(Reference is to HB 1172 as printed January 27, 2006.)

T. HARRIS

Motion prevailed.

HOUSE MOTION (Amendment 1172-7)

Mr. Speaker: I move that House Bill 1172 be amended to read as follows:

Page 3, after line 7, begin a new paragraph and insert:

"(c) Nothing in this section shall be construed to prohibit an individual who is authorized under subsection (a)(1) to provide the information described in subsection (a)(1)(G) or subsection (a)(3)(c) from informing a woman of the individual's own professional medical opinion concerning:

- (1) the capacity of a fetus to experience pain;**
- (2) the advisability of administering an anesthetic or analgesic to a woman or a fetus;**
- (3) any other matter related to fetal pain; or**
- (4) when human life begins."**

(Reference is to HB 1172, Digest Correction, as printed January 27, 2006.)

KUZMAN

Motion failed.

HOUSE MOTION (Amendment 1172-6)

Mr. Speaker: I move that House Bill 1172 be amended to read as follows:

Page 2, between lines 22 and 23, begin a new line double block indented and insert:

"The requirement to give information under this clause may be omitted in the case of rape or incest."

(Reference is to HB 1172, Digest Correction, as printed January 27, 2006.)

KUZMAN

Motion failed.

HOUSE MOTION (Amendment 1172-3)

Mr. Speaker: I move that House Bill 1172 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 16-34-2-0.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 0.5. Human life begins when a

human ovum is fertilized by a human sperm."

Renumber all SECTIONS consecutively.

(Reference is to HB 1172 as printed January 27, 2006.)

WOODRUFF

Representative Pierce rose to a point of order, citing Rule 118, stating that the motion was attempting to incorporate into House Bill 1172 a bill pending before the House.

After discussion, Representative Woodruff withdrew the motion

There being no further amendments, the bill was ordered engrossed.

House Bill 1176

Representative Woodruff called down House Bill 1176 for second reading. The bill was read a second time by title.

HOUSE MOTION (Amendment 1176-1)

Mr. Speaker: I move that House Bill 1176 be amended to read as follows:

Page 2, line 4, strike "a ten dollar (\$10) application fee, five".

Page 2, strike line 5 and insert **"the following application fees:**

- (1) From a person applying for a four (4) year handgun license, a ten dollar (\$10) application fee, five dollars (\$5) of which shall be refunded if the license is not issued.**
- (2) From a person applying for a lifetime handgun license who does not currently possess a valid Indiana handgun license, a fifty dollar (\$50) application fee, thirty dollars (\$30) of which shall be refunded if the license is not issued.**
- (3) From a person applying for a lifetime handgun license who currently possesses a valid Indiana handgun license, a forty dollar (\$40) application fee, thirty dollars (\$30) of which shall be refunded if the license is not issued."**

Page 2, line 6, delete ":".

Page 2, line 7, strike "(1)".

Page 2, line 8, delete ",".

Page 2, line 9, strike "(2)".

Page 2, line 9, strike "for the purpose of:" and insert **"to"**.

Page 2, line 10, strike "(A) training" and insert **"train"**.

Page 2, line 11, after "firearms or" insert **"in"**.

Page 2, line 11, delete ";" and insert ",".

Page 2, line 12, strike "(B) purchasing" and insert **"to purchase firearms or firearm related equipment, or both"**.

Page 2, line 13, after "agency" insert ".".

Page 2, line 13, strike "firearms, or firearm related".

Page 2, line 14 strike "equipment, or both".

Page 2, run in lines 6 through 15.

Page 3, line 13, after "years" delete "." and insert **"in the case of a four (4) year license. The superintendent may adopt guidelines to establish a records retention policy for a lifetime license."**

Page 3, line 13, strike "This" and insert **"A four (4) year"**.

Page 3, line 14, after "issue." insert **"A lifetime license is valid for the life of the individual receiving the license."**

Page 3, line 18, after "of" strike "such" and insert **"these"**.

Page 3, line 18, after "However," strike "such" and insert **"a"**.

Page 3, line 19, strike "licenses are" and insert **"license is"**.

Page 4, between lines 33 and 34, begin a new paragraph and insert: **"SECTION 2. IC 35-47-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. (a) Licenses to carry handguns shall be either qualified or unlimited, and are valid for:**

- (1) four (4) years from the date of issue in the case of a four (4) year license; or**
- (2) the life of the individual receiving the license in the case of a lifetime license.**

A qualified license shall be issued for hunting and target practice. The superintendent may adopt rules imposing limitations on the use and carrying of handguns under a license when handguns are carried by a licensee as a condition of employment. Unlimited licenses shall be issued for the purpose of the protection of life and property.

(b) In addition to the application fee, the fee for:

(1) a qualified license shall be:

- (A) five dollars (\$5) for a four (4) year qualified license;**

(B) twenty-five dollars (\$25) for a lifetime qualified license from a person who does not currently possess a valid Indiana handgun license; or
(C) twenty dollars (\$20) for a lifetime qualified license from a person who currently possesses a valid Indiana handgun license; and the fee for

(2) an unlimited license shall be:

(A) fifteen dollars (\$15) for a four (4) year unlimited license;
(B) seventy-five dollars (\$75) for a lifetime unlimited license from a person who does not currently possess a valid Indiana handgun license; or
(C) sixty (\$60) for a lifetime unlimited license from a person who currently possesses a valid Indiana handgun license.

The superintendent shall charge a five dollar (\$5) fee for the issuance of a duplicate license to replace a lost or damaged license. These fees shall be deposited by the superintendent with the treasurer of state.

(c) Licensed dealers are exempt from the payment of fees specified in subsection (b) for a qualified license or an unlimited license.

(d) The following officers of this state or the United States who have been honorably retired by a lawfully created pension board or its equivalent after at least twenty (20) years of service or because of a disability are exempt from the payment of fees specified in subsection (b):

- (1) Police officers.
- (2) Sheriffs or their deputies.
- (3) Law enforcement officers.
- (4) Correctional officers."

Renumber all SECTIONS consecutively.

(Reference is to HB 1176 as printed January 26, 2006.)

WOODRUFF

On the motion of Representative Yount, the previous question was called. Upon request of Representatives Ruppel and Woodruff, the Speaker ordered the roll of the House to be called. Roll Call 97: yeas 82, nays 16. Motion prevailed. The bill was ordered engrossed.

The Speaker yielded the gavel to the Speaker Pro Tempore, Representative Turner.

House Bill 1203

Representative Thompson called down House Bill 1203 for second reading. The bill was read a second time by title.

HOUSE MOTION

(Amendment 1203-1)

Mr. Speaker: I move that House Bill 1203 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 31-17-2-25 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 25. (a) This section applies if a custodial parent or guardian of a child dies or becomes unable to care for the child.

(b) Except as provided in subsection (c), if a person other than a parent files a petition:

- (1) seeking to determine custody of the child; or
- (2) to modify custody of the child;

the court shall set an initial hearing not later than forty-eight (48) hours after the petition is filed to determine whether emergency placement of the child with a person other than the child's noncustodial parent pending a final determination of custody is in the best interest of the child.

(c) A court is not required to set an initial hearing in accordance with this section if:

- (1) it appears from the pleadings that placement with a person other than the noncustodial parent is not in the best interest of the child;
- (2) it appears from the pleadings that the petitioner does not have a reasonable likelihood of success on the merits; or

(3) manifest injustice would result."

Renumber all SECTIONS consecutively.

(Reference is to HB 1203 as printed January 26, 2006.)

GRUBB

Motion prevailed. The bill was ordered engrossed.

House Bill 1212

Representative Dodge called down House Bill 1212 for second reading. The bill was read a second time by title.

HOUSE MOTION

(Amendment 1212-1)

Mr. Speaker: I move that House Bill 1212 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 8-1.5-5-32 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 32. (a) This section applies to excluded cities and towns in a county containing a consolidated city.

(b) A municipality to which this section applies may withdraw from the district established by the consolidated city if the municipal legislative body adopts an ordinance withdrawing the municipality from the district. The municipal legislative body shall, at least thirty (30) days before the final vote on the ordinance, mail written notice of the meeting to the following:

- (1) All owners of lots and parcels within the municipality that are subject to storm water user fees imposed in the district by the department of public works of the consolidated city.
- (2) The department of public works of the consolidated city.

(c) An ordinance described in subsection (b) takes effect sixty (60) days after adoption by the municipal legislative body.

(d) In addition to the notice required by subsection (b), if a municipal legislative body adopts an ordinance under subsection (b), the municipal legislative body shall mail written notice of the withdrawal from the district to the department of public works of the consolidated city not more than thirty (30) days after the ordinance becomes effective.

(e) If on the date of a municipality's withdrawal from the district there are bonds outstanding that have been issued by the board of public works of the consolidated city, the municipality is liable for and shall pay that indebtedness in the same ratio as the assessed valuation of the property in the municipality bears to the assessed valuation of all property included in the district on the date one (1) day before the date of withdrawal, as shown in the most recent assessment for taxation before the date of withdrawal.

(f) If a municipal legislative body adopts an ordinance under subsection (b), the district is entitled to receive the following:

- (1) An annual lump sum payment equal to the total amount of property taxes paid and allocated to the district's flood debt service fund from all property taxpayers within the municipality, to the extent the property taxes are not necessary to pay the indebtedness owed by the municipality under subsection (e). A payment under this subdivision is required for property taxes assessed beginning on the January 1 preceding the effective date of the municipality's withdrawal from the district.
- (2) The total amount of storm water user fees collected by the department of public works of the consolidated city from the lots and parcels in the municipality beginning on the January 1 preceding the effective date of the municipality's withdrawal from the district.

(g) Payments received under subsection (f):

- (1) shall be deposited by the municipality in a dedicated fund; and
- (2) may be used by the municipality only for purposes of storm water management in the municipality and may not be diverted, directly or indirectly, in any manner to any use other than the purposes of storm water management in the municipality."

Renumber all SECTIONS consecutively.
(Reference is to HB 1212 as printed January 27, 2006.)

HINKLE

The Speaker ordered a division of the House and appointed Representatives Friend and Kuzman to count the yeas and nays. Yeas 53, nays 42. Motion prevailed. The bill was ordered engrossed.

The Speaker Pro Tempore yielded the gavel to the Speaker.

[NOTE: Roll Call 98 was a machine test.]

House Bill 1213

Representative Noe called down House Bill 1213 for second reading. The bill was read a second time by title.

HOUSE MOTION (Amendment 1213-2)

Mr. Speaker: I move that House Bill 1213 be amended to read as follows:

Page 2, line 1, delete "November 1, 2006" and insert "**May 1, 2007**".

Page 2, line 12, delete "December 31, 2006" and insert "**December 31, 2007**".

(Reference is to HB 1213 as printed January 26, 2006.)

NOE

Motion prevailed.

HOUSE MOTION (Amendment 1213-1)

Mr. Speaker: I move that House Bill 1213 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 20-28-5-11.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 11.5. (a) After January 1, 2008, an individual who seeks to renew a license issued under this chapter must demonstrate proficiency in the areas in which the individual is licensed to teach by passing an examination once during each five (5) year period.**

(b) The board shall develop and administer the examinations required under this subsection."

Renumber all SECTIONS consecutively.

(Reference is to HB 1213 as printed January 26, 2006.)

TURNER

On the motion of Representative Whetstone, the previous question was called. Upon request of Representatives Robertson and Porter, the Speaker ordered the roll of the House to be called. Roll Call 99: yeas 27, nays 71. Motion failed. The bill was ordered engrossed.

The House recessed until the fall of the gavel.

RECESS

The House reconvened at 7:35 p.m. with the Speaker in the Chair.

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed Engrossed Senate Bills 77, 92, 94, 139, 157, 253, 331, and 354 and the same are herewith transmitted to the House for further action.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed Senate Concurrent Resolution 22 and the same is herewith transmitted to the House for further action.

MARY C. MENDEL
Principal Secretary of the Senate

RESOLUTIONS ON FIRST READING

Senate Concurrent Resolution 22

The Speaker handed down Senate Concurrent Resolution 22, sponsored by Representative Tyler:

A CONCURRENT RESOLUTION congratulating the Muncie Burris High School girls' volleyball team for their outstanding accomplishment in the 2005 Indiana High School Association Class 2A girls' state volleyball championship.

Whereas, The team defeated Brownstown Central, 25-18, 25-14, 25-16, at Butler University in the state championship game at historic Hinkle Fieldhouse in Indianapolis on Saturday, November 5, 2005; and

Whereas, The Muncie Burris Team girls' volleyball team had a record of 36-4 for the 2005 season; and

Whereas, The team, with this victory, won their 16th volleyball state championship and 9th straight Championship in a row; and

Whereas, The team has won their 25th consecutive Mid Eastern Conference Championship and has won 62 straight state tournament matches; and

Whereas, The team finished ranked 18th in the United States by PrepVolleyball.com; and

Whereas, The team has won 30 or more matches for 25 consecutive years; and

Whereas, Coach Steve Shondell's career record at Burris is 1,035 wins and only 83 losses, a winning percentage of 92.6%; and

Whereas, Team member Lauren Kaminsky, senior, became the 10th Muncie Burris recipient of the IHSAA Mental Attitude Award at the Indiana Volleyball State Finals; and

Whereas, The Muncie Burris High School team was led by Head Coach Steve Shondell, Assistant Coaches Reece Peacock, Emily Sallee, and Lenny Kaminsky, Principal Dr. Jay McGee, Athletic Director Ray Dawson, and includes team members Molly Davis, Teresa Craig, Lauren Kaminsky, Shelly Surma, Ana Fuschetto, Caitlyn Vann, Karin Caudill, Taylor Hyman, Emily Brown, Paige Demaree, Leslie White, Bonnie Kaminsky, Christie Waters, Avery Mayfield, and Mia Tabberson; Therefore,

*Be it resolved by the Senate
of the General Assembly of the State of Indiana,
the House of Representatives concurring:*

SECTION 1. That the General Assembly congratulates the Muncie Burris High School girls' volleyball team for its accomplishment in winning the 2005 IHSAA Class 2A girls' state volleyball championship and extend it congratulations to the team members, coaching staff, their families, and the school.

SECTION 2. That the Secretary of the Senate shall transmit a copy of this resolution to each team member, each member of the coaching staff, the Athletic Director, and the Principal.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution.

HOUSE BILLS ON SECOND READING

House Bill 1232

Representative Ayres called down House Bill 1232 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

House Bill 1239

Representative Ripley called down House Bill 1239 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

House Bill 1240

Representative Behning called down House Bill 1240 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1240-1)

Mr. Speaker: I move that House Bill 1240 be amended to read as follows:

Page 2, line 16, after "develop" insert ", **subject to the approval of the state board,**".

Page 2, line 37, delete "online,".

Page 2, line 42, delete "online".

Page 3, line 6, delete "online".

Page 3, line 24, delete "uses" and insert "**moves toward the use of**".

Page 3, line 28, delete "online".

Page 3, line 34, delete "first two (2) weeks that end in" and insert "**period**".

Page 3, line 35, delete "May".

Page 3, line 35, delete "year;" and insert "**year from May 1 to the end of the school year;**".

Page 4, line 11, delete "national and international".

Page 4, line 12, delete "companies;" and insert "**companies serving school systems in the United States,**".

Page 4, between lines 38 and 39, begin a new paragraph and insert: "**(c) School corporations may make decisions for remediation of students based on multiple factors, which may include either intrayear diagnostic assessments or end of the year assessments.**".

(Reference is to HB 1240 as printed January 27, 2006.)

BEHNING

Motion prevailed.

HOUSE MOTION
(Amendment 1240-7)

Mr. Speaker: I move that House Bill 1240 be amended to read as follows:

Page 4, between lines 26 and 27, begin a new paragraph and insert: "SECTION 3. IC 20-32-5-16.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 16.5. (a) A student who attends a nonaccredited nonpublic school that provides home based instruction shall participate in the ISTEP program testing under this chapter at the same time that students enrolled in the school corporation in which the nonaccredited nonpublic school is located are tested.**

(b) The results of the ISTEP program testing under subsection (a) shall be made available to the department."

Renumber all SECTIONS consecutively.

(Reference is to HB 1240 as printed January 27, 2006.)

CHENEY

Upon request of Representatives Frizzell and Behning, the Speaker ordered the roll of the House to be called. Roll Call 100: yeas 23, nays 77. Motion failed.

HOUSE MOTION
(Amendment 1240-6)

Mr. Speaker: I move that House Bill 1240 be amended to read as follows:

Page 4, between lines 26 and 27, begin a new paragraph and insert: "SECTION 3. IC 20-32-5-19, AS ADDED BY P.L.1-2005, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 19. If state funds appropriated for remediation are available under IC 20-32-8 at the end of a state fiscal year **after making the total amount of grants required under IC 20-32-8-6, the funds:**

(1) do not revert to the state general fund; and

(2) must be transferred to the 4R's technology program for use under IC 20-20-13-9.

SECTION 4. IC 20-32-8-6, AS ADDED BY P.L.1-2005, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. **(a) The formula the department develops under this chapter must provide the following:**

(1) Each school corporation must be able to qualify for a grant.

(2) A maximum grant amount must be determined for each school corporation.

(3) The amount that a school corporation may receive per student must be related to:

(A) the percentage of students scoring below state achievement standards; or

(B) for a freeway school or freeway school corporation having a locally adopted assessment program, the percentage of students falling below achievement standards under the locally adopted assessment program.

The school corporation having the highest percentage of students scoring below state achievement standards must be entitled to the highest grant amount per student.

(4) The actual grant to a school corporation must be the lesser of:

(A) two hundred percent (200%) of the amount appropriated by the governing body of the school corporation under section 7 of this chapter; or

(B) the maximum grant amount determined for the school corporation under subdivision (2).

(5) The amount distributed to school corporations under the program may not exceed the appropriation by the general assembly for the remediation grant program.

(b) The department shall distribute maximum grants for school corporations that provide for the distribution of grants in each school year equal to at least two hundred percent (200%) of the amount expended for the ISTEP program developed under IC 20-32-5."

Renumber all SECTIONS consecutively.

(Reference is to HB 1240 as printed January 27, 2006.)

ORENTLICHER

Upon request of Representatives Orentlicher and Stilwell, the Speaker ordered the roll of the House to be called. Roll Call 101: yeas 45, nays 51. Motion failed.

HOUSE MOTION
(Amendment 1240-3)

Mr. Speaker: I move that House Bill 1240 be amended to read as follows:

Page 4, between lines 26 and 27, begin a new paragraph and insert: "SECTION 3. IC 20-32-8-7, AS ADDED BY P.L.1-2005, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 7. **(a) A school corporation qualifies to receive a grant when the governing body of the school corporation appropriates money from the general fund of the school corporation for a:**

(1) remediation program; or

(2) preventive remediation program;

that meets the state board's standards for funding under the program, and, if the program is a preventive remediation program, that has been approved by the state board.

(b) Beginning with the 2007-2008 school year, a school corporation shall provide a summer school remediation program for any student who does not pass the ISTEP test administered in the spring semester of the school year. The remediation program must:

(1) include twenty (20) days of instruction at two (2) hours per day per subject matter;

(2) have a pupil teacher ratio for each class that is not greater than fifteen to one (15:1);

(3) be taught by teachers certified in the subject matter;

(4) provide five (5) additional days for teachers to prepare the curriculum; and

(5) provide two (2) additional days for parent/teacher conferences during the summer.

SECTION 4. IC 20-32-8-8, AS ADDED BY P.L.1-2005, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. The governing body of a school corporation ~~may~~ **shall** establish a remediation program or a preventive remediation program under this chapter for all students who fall below the academic standards adopted under IC 20-31-3. The governing body shall spend money under this chapter for direct remediation or direct preventative remediation services for students.

SECTION 5. IC 20-32-8-9, AS ADDED BY P.L.1-2005, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 9. ~~If the governing body decides to establish a remediation program or preventive remediation program~~

~~under this chapter, the~~ A governing body must:

- (1) subject to section 10 of this chapter, determine the type of program that best fits the needs of the students of the school corporation; and
- (2) adopt guidelines for:
 - (A) procedures for determining student eligibility for a program; and
 - (B) implementation of the program."

Renumber all SECTIONS consecutively.

(Reference is to HB 1240 as printed January 27, 2006.)

PORTER

Upon request of Representatives Porter and Robertson, the Speaker ordered the roll of the House to be called. Roll Call 102: yeas 50, nays 50. Motion failed.

HOUSE MOTION
(Amendment 1240-2)

Mr. Speaker: I move that House Bill 1240 be amended to read as follows:

Page 1, line 6, strike "date," and insert "**dates in the fall and spring**".

Page 1, line 6, delete "which for school years beginning after".

Page 1, delete line 7.

Page 1, line 8, delete "in May of the school year,".

Page 1, line 8, strike "is" and insert "**may be**".

Page 1, line 10, after "(b)" insert "**Each governing body shall determine whether the ISTEP program tests are administered in the fall or spring within the school corporation according to the schedule adopted under subsection (a).**

(c)".

Page 1, line 12, strike "(c)" and insert "**(d)**".

Page 2, between lines 12 and 13, begin a new line block indented and insert:

"Only school corporations that elect to administer the ISTEP program tests in spring may participate in the pilot test."

(Reference is to HB 1240 as printed January 27, 2006.)

DENBO

Motion failed. The bill was ordered engrossed.

House Bill 1247

Representative Welch called down House Bill 1247 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1247-2)

Mr. Speaker: I move that House Bill 1247 be amended to read as follows:

Page 2, delete lines 5 through 12.

Page 2, line 13, reset in roman "(d)".

Page 2, line 13, delete "(e)".

Page 2, line 15, reset in roman "(e)".

Page 2, line 15, delete "(f)".

Page 2, line 30, reset in roman "(f)".

Page 2, line 30, delete "(g)".

Page 2, line 39, reset in roman "(g)".

Page 2, line 39, delete "(h)".

Page 2, line 39, reset in roman "(e)(2)".

Page 2, line 39, delete "(f)(2)".

Page 2, line 42, reset in roman "(h)".

Page 2, line 42, delete "(i)".

Page 2, line 42, reset in roman "(e)(1), (e)(2), (e)(3)(C)".

Page 3, line 1, delete "(f)(1), (f)(2), (f)(3)(C)".

Page 3, line 1, reset in roman "(e)(3)(D)".

Page 3, line 1, delete "(f)(3)(D)".

(Reference is to HB 1247 as printed January 27, 2006.)

KUZMAN

Motion prevailed.

HOUSE MOTION
(Amendment 1247-1)

Mr. Speaker: I move that House Bill 1247 be amended to read as follows:

Page 2, between lines 12 and 13, begin a new line blocked left and insert:

"This subsection does not affect or supersede any other right, remedy, or defense provided by any other law."

(Reference is to HB 1247 as printed January 27, 2006.)

WELCH

Motion prevailed. The bill was ordered engrossed.

House Bill 1250

Representative Messer called down House Bill 1250 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1250-13)

Mr. Speaker: I move that House Bill 1250 be amended to read as follows:

Page 16, between lines 40 and 41, begin a new paragraph and insert:

"SECTION 18. IC 7.1-5-7-16 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 16. The commission shall conduct random unannounced inspections at locations where alcoholic beverages are sold or distributed to ensure compliance with this title. Only the commission, an Indiana law enforcement agency, the office of the sheriff of a county, or an organized police department of a municipal corporation may conduct the random unannounced inspections. These entities may use retired or off-duty law enforcement officers to conduct inspections under this section.

SECTION 20. IC 7.1-5-7-17 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17. (a) Notwithstanding any other law, an enforcement officer vested with full police powers and duties may engage a person who is:

(1) at least eighteen (18) years of age; and

(2) less than twenty-one (21) years of age;

to receive or purchase alcoholic beverages as part of an enforcement action under this article.

(b) The initial or contemporaneous receipt or purchase of an alcoholic beverage under this section by a person described in subsection (a) must:

(1) occur under the direction of an enforcement officer vested with full police powers and duties; and

(2) be a part of the enforcement action."

Renumber all SECTIONS consecutively.

(Reference is to HB 1250, Printer's Error, as printed January 26, 2006.)

MESSER

Motion prevailed.

HOUSE MOTION
(Amendment 1250-1)

Mr. Speaker: I move that House Bill 1250 be amended to read as follows:

Page 1, line 7, after "title" insert "**and rules adopted under this title**".

Page 1, line 9, after "title" insert "**and in rules adopted under this title**".

Page 2, line 38, delete "Saturday," and insert "**Sunday**".

Page 2, line 38, delete "supplemental".

Page 2, line 40, delete "January 1" and insert "**December 31**".

Page 15, line 23, delete "ten (10)" and insert "**three (3)**".

(Reference is to HB 1250, Printer's Error, as printed January 26, 2006.)

WHETSTONE

Motion prevailed.

HOUSE MOTION
(Amendment 1250-3)

Mr. Speaker: I move that House Bill 1250 be amended to read as follows:

Page 6, line 13, reset in roman "It is".

Page 6, reset in roman lines 14 through 17.

(Reference is to HB 1250 as printed January 26, 2005.)

WHETSTONE

Motion prevailed.

HOUSE MOTION
(Amendment 1250-2)

Mr. Speaker: I move that House Bill 1250 be amended to read as follows:

Page 1, line 7, after "title" insert "**and rules adopted under this title**".

Page 1, line 9, after "title" insert "**and rules adopted under this title**".

Page 2, between lines 10 and 11, begin a new paragraph and insert: "SECTION 3. IC 7.1-2-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. ~~Disposition of Articles Pending Judgment~~. An alcoholic beverage or tobacco seized pursuant to this chapter and any other article which may be found on the searched premises and taken under the warrant shall not be taken from the custody of the person who served the warrant by a writ of replevin or other process while the proceedings provided in this chapter are pending. A final judgment of conviction in that proceeding shall be a bar in all cases to an action for recovery of the thing seized or the value of it or damages alleged to have arisen by reason of the seizing and detention of it.

SECTION 4. IC 7.1-2-5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. ~~Property Rights Limited~~. All rights of any kind in an alcoholic beverage or a tobacco product of any type, or in a container for an alcoholic beverage, or in an article, apparatus, package, fixture or utensil in which an alcoholic beverage may be placed, or which is used in connection with it, or a vehicle or conveyance in which an alcoholic beverage is being transported or which is used for the transportation of an alcoholic beverage, shall at all times and under all circumstances by whomsoever held, owned, or possessed, be deemed qualified by the right of the state, the commission, and the chairman, to administer, execute and enforce the provisions of this title.

SECTION 5. IC 7.1-2-5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. ~~Certain Property Rights Prohibited~~. A person shall have no property right of any kind in alcohol, an alcoholic beverage, or malt article, or tobacco product had, kept, transported, or possessed contrary to law, or in or to a receptacle or container of any kind in which these liquids and articles may be found, or in an unlawful or prohibited receptacle or container, or in a receptacle or container which does not conform to or which is being used contrary to or which is not kept in conformity to a rule or regulation of the commission, or which is being used to contain an alcoholic beverage upon which a tax is due and unpaid, or an adulterated or misbranded alcoholic beverage, or which is being used in an unlawful practice, or a practice contrary to a rule or regulation of the commission.

SECTION 6. IC 7.1-2-5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 7. ~~Illegal Transportation: Property Rights Limited~~. A person who is interested in illegal transportation, or who has knowledge of it, shall have no right, title, or interest in or to a conveyance of any kind used for the illegal transportation of alcohol, alcoholic beverages, or malt articles, or tobacco.

SECTION 7. IC 7.1-2-5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. ~~Forfeiture to State~~. An officer who makes an arrest for a violation of the provisions of this title shall seize the evidence of the commission of that violation, including any vehicle, automobile, boat, air or water craft, or other conveyance in which alcohol, alcoholic beverages or malt articles are kept, possessed or transported contrary to law, or contrary to a rule or regulation of the commission. The articles and vehicles mentioned in this section and in ~~IC 1971, 7.1-2-5-5, 7.1-2-5-7, IC 7.1-2-5-5 through IC 7.1-2-5-7~~, are hereby declared forfeited to the state and shall be seized."

Page 12, between lines 6 and 7, begin a new paragraph and insert: "SECTION 20. IC 7.1-3-18.5-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3.5. An application for a tobacco certificate must contain the express statement of the

applicant that the applicant consents for the duration of the certificate term (if the commission issues the certificate to the applicant) to the entrance, inspection, and search by an enforcement officer, without a warrant or other process, of the applicant's retail premises and vehicles to determine whether the applicant is complying with the provisions of this title. The consent required by this section is renewed and continued by the retention of a certificate or the certificate's use by an applicant or the applicant's agents."

Page 17, between lines 39 and 40, begin a new paragraph and insert:

"SECTION 25. IC 24-3-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. Unless the context in this chapter requires otherwise, the term:

(a) "Cigarette" shall mean and include any roll for smoking made wholly or in part of tobacco, irrespective of size or shape and irrespective of tobacco being flavored, adulterated, or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any other material; provided the definition in this paragraph shall not be construed to include cigars.

(b) "Person" or the term "company", used in this chapter interchangeably, means and includes any individual, assignee, receiver, commissioner, fiduciary, trustee, executor, administrator, institution, bank, consignee, firm, partnership, limited liability company, joint vendor, pool, syndicate, bureau, association, cooperative association, society, club, fraternity, sorority, lodge, corporation, municipal corporation, or other political subdivision of the state engaged in private or proprietary activities or business, estate, trust, or any other group or combination acting as a unit, and the plural as well as the singular number, unless the intention to give a more limited meaning is disclosed by the context.

(c) "Distributor" shall mean and include every person who sells, barter, exchanges, or distributes cigarettes in the state of Indiana to retail dealers for the purpose of resale, or who purchases for resale cigarettes from a manufacturer of cigarettes or from a wholesaler, jobber, or distributor outside the state of Indiana who is not a distributor holding a registration certificate issued under the provisions of IC 6-7-1.

(d) "Retailer" shall mean every person, other than a distributor, who purchases, sells, offers for sale, or distributes cigarettes to consumers or to any person for any purpose other than resale, irrespective of quantity or amount or the number of sales.

(e) "Sell at retail", "sale at retail", and "retail sales" shall mean and include any transfer of title to cigarettes for a valuable consideration made in the ordinary course of trade or usual conduct of the seller's business to the purchaser for consummation or use.

(f) "Sell at wholesale", "sale at wholesale", and "wholesale sales" shall mean and include any transfer of title to cigarettes for a valuable consideration made in the ordinary course of trade or usual conduct of a distributor's business.

(g) "Basic cost of cigarettes" shall mean the invoice cost of cigarettes to the retailer or distributor, as the case may be, or the replacement cost of cigarettes to the retailer or distributor, as the case may be, within thirty (30) days prior to the date of sale, in the quantity last purchased, whichever is the lower, less all trade discounts and customary discounts for cash, plus the cost at full face value of any stamps which may be required by IC 6-7-1, if not included by the manufacturer in his selling price to the distributor.

(h) "Department" shall mean the alcohol and tobacco commission or its duly authorized assistants and employees.

(i) "Cost to the retailer" shall mean the basic cost of cigarettes to the retailer, plus the cost of doing business by the retailer as evidenced by the standards and methods of accounting regularly employed by him in his allocation of overhead costs and expenses paid or incurred and must include without limitation labor (including salaries of executives and officers), rent, depreciation, selling costs, maintenance of equipment, delivery costs, all types of licenses, taxes, insurance, and advertising; however, any retailer who, in connection with the retailer's purchase, receives not only the discounts ordinarily allowed upon purchases by a retailer, but also, in whole or in part, discounts ordinarily allowed on purchases by a distributor shall, in determining costs to the retailer pursuant to this section, add the cost to the distributor, as defined in paragraph (j), to the basic cost of

cigarettes to said retailer as well as the cost of doing business by the retailer. ~~In the absence of proof of a lesser or higher cost of doing business by the retailer making the sale,~~ The cost of doing business by the retailer shall be presumed to be eight percent (8%) of the basic cost of cigarettes to the retailer. ~~In the absence of proof of a lesser or higher cost of doing business,~~ The cost of doing business by the retailer, who in connection with the retailer's purchase receives not only the discounts ordinarily allowed upon purchases by a retailer, but also, in whole or in part, the discounts ordinarily allowed upon purchases by a distributor, shall be presumed to be eight percent (8%) of the sum of the basic cost of cigarettes plus the cost of doing business by the distributor.

(j) "Cost to the distributor" shall mean the basic cost of cigarettes to the distributor, plus the ~~cost of doing business by the distributor as evidenced by the standards and methods of accounting regularly employed by him in his allocation of overhead costs and expenses;~~ paid or incurred; and must include without limitation labor costs (including salaries of executives and officers); rent; depreciation; selling costs; maintenance of equipment; delivery costs; all types of licenses; taxes; insurance; and advertising. ~~In the absence of proof of a lesser or higher cost of doing business by the distributor making the sale,~~ the cost of doing business by the wholesaler, which shall be presumed to be four percent (4%) of the basic cost of cigarettes to the distributor, plus cartage to the retail outlet, if performed or paid for by the distributor, which cartage cost, in the absence of proof of a lesser or higher cost, shall be deemed to be one-half of one percent (0.5%) of the basic cost of cigarettes to the distributor.

(k) "Registration certificate" refers to the registration certificate issued to cigarette distributors by the department of state revenue under IC 6-7-1-16.

SECTION 26. IC 24-3-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. (a) It is a Class A infraction for a retailer or distributor ~~with intent to injure competitors or destroy or substantially lessen competition;~~ to offer to sell or sell at retail or wholesale cigarettes at less than the cost to him. The department may do either of the following if a retailer or a distributor violates this subsection:

(1) Revoke or suspend the:

(A) registration certificate held by ~~such a~~ the distributor under IC 6-7-1; ~~may be revoked; by the department or~~

(B) tobacco certificate held by the retailer; ~~for the balance of the term thereof; of the certificate.~~

(2) Impose a civil penalty under IC 7.1-3-18.5.

(b) Evidence of offering to sell or sale of cigarettes by any retailer or distributor at less than the cost to him is prima facie evidence of intent to injure competitors and to destroy or substantially lessen competition.

(c) Notwithstanding IC 34-28-5-5(c), a judgment for a violation of this section shall be deposited in the enforcement and administration fund established under IC 7.1-4-10-1.

SECTION 27. IC 24-3-2-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 13. (a) The department may adopt rules for the enforcement of this chapter. ~~and the department is empowered to and may undertake a cost survey; as provided for in section 11 of this chapter.~~ The department may, in accordance with IC 4-21.5-3, suspend or revoke any registration certificate issued by it to a distributor under IC 6-7-1 for failure of any registrant to comply with this chapter or any rule adopted under this chapter.

(b) All the powers vested in the department by IC 6-7-1 and IC 7.1-3-18.5-3.5 shall be available to the department in the enforcement of this chapter."

Page 17, line 42, after "IC 7.1-3-21-7" delete "." and insert "; IC 24-3-2-7; IC 24-3-2-11."

Renumber all SECTIONS consecutively.

(Reference is to HB 1250, Printer's Error, as printed January 26, 2006.)

WHETSTONE

Motion prevailed.

HOUSE MOTION
(Amendment 1250-5)

Mr. Speaker: I move that House Bill 1250 be amended to read as

follows:

Page 2, between lines 2 and 3, begin a new paragraph and insert:
"SECTION 2. IC 7.1-1-3-18.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 18.5. "Grocery store" means a retail store that meets all of the following requirements:

(1) The store offers for sale all of the following items:

- (A) Dairy products.
- (B) Meat products.
- (C) Beverages.
- (D) Snack foods.
- (E) Candy products.
- (F) Bakery products.
- (G) Refrigerated foods.
- (H) Paper products.
- (I) Medicinal products.
- (J) Health and beauty aids.
- (K) Household cleaning products.
- (L) Newspapers and magazines.
- (M) Canned goods.

(2) The store has at least one hundred (100) linear feet of shelf space for the items listed in subdivision (1)."

Page 17, after line 42, begin a new paragraph and insert:

"SECTION 22. [EFFECTIVE JULY 1, 2006] (a) Notwithstanding IC 7.1-1-3-18.5 as added by this act, a grocery store dealer permit issued before July 1, 2006, for premises that do not meet the requirements of IC 7.1-1-3-18.5 as added by this act, shall be considered a valid grocery store dealer permit. The grocery store dealer permit may be renewed or restored, and the ownership or location of the permit may be transferred without meeting the requirements of IC 7.1-1-3-18.5 as added by this act.

(b) Subject to subsection (a), this SECTION does not prohibit the alcohol and tobacco commission from revoking, suspending, or refusing to renew a permit described in subsection (a) for failing to comply with IC 7.1 or the rules of the commission.

(c) Notwithstanding subsection (a), a permit described in subsection (a) that is not revoked, suspended, or renewed expires on the date the permit would have expired if this act had not been enacted."

Renumber all SECTIONS consecutively.

(Reference is to HB 1250, Printer's Error, as printed January 26, 2006.)

AUSTIN

Motion failed.

HOUSE MOTION
(Amendment 1250-4)

Mr. Speaker: I move that House Bill 1250 be amended to read as follows:

Page 2, between lines 2 and 3, begin a new paragraph and insert:
"SECTION 2. IC 7.1-1-3-18.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 18.5. (a) "Grocery store" means a store or a part of a store that:

- (1) has the primary North American Industry Classification System (NAICS) classification 445110 or 452910; and
- (2) is primarily engaged in the retail sale of a general food line, which may include:

- (A) canned and frozen foods;
- (B) dry goods, including tea, coffee, sugar, and flour;
- (C) fresh fruits and vegetables; and
- (D) fresh and prepared meats.

(b) The term does not include a store that has less than two hundred fifty thousand dollars (\$250,000) in annual gross sales of food, excluding the following:

- (1) Candy, confectionaries, and chewing gum.
- (2) Alcoholic beverages.
- (3) Cocktail mixers.
- (4) Soft drinks, sodas, and other similar beverages.
- (5) Medicines, tonics, vitamins, and other dietary supplements.
- (6) Water (except natural spring water), mineral water,

carbonated water, and ice.

(7) Pet food.

(8) Food furnished, prepared, or served for consumption at a location, or on equipment, provided by the retail merchant.

(9) Meals served by a retail merchant off the merchant's premises.

(10) Food sold by a retail merchant who ordinarily bags, wraps, or packages the food for immediate consumption on or near the merchant's premises, including food sold on a "take out" or "to go" basis.

(11) Food sold through a vending machine.

(12) Tobacco products."

Page 17, after line 42, begin a new paragraph and insert:

"SECTION 22. [EFFECTIVE JULY 1, 2006] **Notwithstanding IC 7.1-1-3-18.5, as added by this act, the commission may renew or transfer ownership of a beer dealer's permit for a beer dealer who:**

(1) held a permit before July 1, 2006; and

(2) does not qualify for a permit as a grocery store under the definition established by IC 7.1-1-3-18.5, as added by this act."

Renumber all SECTIONS consecutively.

(Reference is to HB 1250, Printer's Error, as printed January 26, 2006.)

ORENTLICHER

Upon request of Representatives Orentlicher and Mahern, the Speaker ordered the roll of the House to be called. Representative Murphy was excused from voting, pursuant to House Rule 46. Roll Call 103: yeas 66, nays 29. Motion prevailed.

HOUSE MOTION
(Amendment 1250-7)

Mr. Speaker: I move that House Bill 1250 be amended to read as follows:

Page 2, between lines 10 and 11, begin a new paragraph and insert: "SECTION 3. IC 7.1-2-4-24 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 24. A local board shall allow all individuals attending a public local board meeting or hearing to make oral comments at the meeting or hearing regarding the subject of the meeting or hearing. However, a local board may set a reasonable limit on the amount of time allowed to each individual to provide oral comment."**

Renumber all SECTIONS consecutively.

(Reference is to HB 1250, Printer's Error, as printed January 26, 2006.)

CROOKS

Motion prevailed.

HOUSE MOTION
(Amendment 1250-6)

Mr. Speaker: I move that House Bill 1250 be amended to read as follows:

Page 17, after line 42, begin a new paragraph and insert:

"SECTION 21. [EFFECTIVE JULY 1, 2006] **(a) As used in this SECTION, "committee" refers to the interim study committee on alcoholic beverage issues established by this SECTION.**

(b) There is established the interim study committee on alcoholic beverage issues.

(c) The committee shall study the alcoholic beverage statutes in IC 7.1 and make recommendations to the legislative council concerning the revision of the alcoholic beverage statutes. The committee shall consider the following:

(1) Simplifying the alcoholic beverage statutes by resolving any inconsistencies in the statutes.

(2) Recodifying the alcoholic beverage statutes.

(3) Defining "grocery store", "convenience store", and "specialty beverage and food store".

(4) Requiring separate areas for the display and sale of alcoholic beverages in retail stores (other than package liquor stores).

(5) Studying any other issue concerning alcoholic beverages

the committee chooses to consider.

(d) The committee shall operate under the policies governing study committees adopted by the legislative council.

(e) The affirmative votes of a majority of the members appointed to the committee are required for the committee to take action on any measure, including final reports.

(f) Before December 1, 2006, the committee shall issue a final report to the legislative council containing the findings and recommendations of the committee.

(g) This SECTION expires January 1, 2007."

Renumber all SECTIONS consecutively.

(Reference is to HB 1250, Printer's Error, as printed January 26, 2006.)

AUSTIN

Motion prevailed. The bill was ordered engrossed.

House Bill 1258

Representative Yount called down House Bill 1258 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1258-1)

Mr. Speaker: I move that House Bill 1258 be amended to read as follows:

Page 2, between lines 9 and 10, begin a new paragraph and insert: "SECTION 4. IC 14-21-1-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 24. (a) As used in this section, "agricultural purpose" includes farming, dairying, pasturage, agriculture, horticulture, floriculture, viticulture, ornamental horticulture, olericulture, pomiculture, animal husbandry, and poultry husbandry.**

(b) Sections 25, 26, 27, 28, and 29 of this chapter do not apply to the following:

(1) Surface coal mining regulated under IC 14-34.

(2) Cemeteries and human remains subject to IC 23-14.

(3) Disturbing the earth for an agricultural purpose.

(4) Collecting any object other than human remains that is visible in whole or in part on the surface of the ground, regardless of the time the object was made or shaped."

Page 2, line 22, after "commission" insert ".".

Page 2, line 22, strike "or a court order and".

Page 2, strike lines 23 through 24.

Renumber all SECTIONS consecutively.

(Reference is to HB 1258 as printed January 26, 2006.)

YOUNT

Motion prevailed. The bill was ordered engrossed.

House Bill 1267

Representative Borrer called down House Bill 1267 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1267-1)

Mr. Speaker: I move that House Bill 1267 be amended to read as follows:

Page 4, between lines 12 and 13, begin a new paragraph and insert: "SECTION 8. IC 22-2-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 4. (a) Every employer employing four (4) or more employees during a work week shall:**

(1) in any work week beginning on or after July 1, 1968, in which ~~he~~ the employer is subject to the provisions of this chapter, pay each of ~~his~~ the employer's employees wages of not less than one dollar and twenty-five cents (\$1.25) per hour;

(2) in any work week beginning on or after July 1, 1977, in which ~~he~~ the employer is subject to this chapter, pay each of ~~his~~ the employer's employees wages of not less than one dollar and fifty cents (\$1.50) per hour;

(3) in any work week beginning on or after January 1, 1978, in which ~~he~~ the employer is subject to this chapter, pay each of ~~his~~ the employer's employees wages of not less than one dollar and seventy-five cents (\$1.75) per hour; and

(4) in any work week beginning on or after January 1, 1979, in

which ~~he~~ **the employer** is subject to this chapter, pay each of ~~his~~ **the employer's** employees wages of not less than two dollars (\$2) per hour.

(b) Except as provided in subsection (c), every employer employing at least two (2) employees during a work week shall, in any work week in which the employer is subject to this chapter, pay each of the employees in any work week beginning on and after July 1, 1990, and before October 1, 1998, wages of not less than three dollars and thirty-five cents (\$3.35) per hour.

(c) An employer subject to subsection (b) is permitted to apply a "tip credit" in determining the amount of cash wage paid to tipped employees. In determining the wage an employer is required to pay a tipped employee, the amount paid the employee by the employee's employer shall be an amount equal to:

- (1) the cash wage paid the employee, which for purposes of the determination shall be not less than the cash wage required to be paid to employees covered under the federal Fair Labor Standards Act of 1938, as amended (29 U.S.C. 203(m)(1)) on August 20, 1996, which amount is two dollars and thirteen cents (\$2.13) an hour; and
- (2) an additional amount on account of the tips received by the employee, which amount is equal to the difference between the wage specified in subdivision (1) and the wage in effect under subsections (b), (f), ~~and~~ (g), **(h), (i), and (k).**

An employer is responsible for supporting the amount of tip credit taken through reported tips by the employees.

(d) No employer having employees subject to any provisions of this section shall discriminate, within any establishment in which employees are employed, between employees on the basis of sex by paying to employees in such establishment a rate less than the rate at which ~~he~~ **the employer** pays wages to employees of the opposite sex in such establishment for equal work on jobs the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions, except where such payment is made pursuant to:

- (1) a seniority system;
- (2) a merit system;
- (3) a system which measures earnings by quantity or quality of production; or
- (4) a differential based on any other factor other than sex.

(e) An employer who is paying a wage rate differential in violation of subsection (d) shall not, in order to comply with subsection (d), reduce the wage rate of any employee, and no labor organization, or its agents, representing employees of an employer having employees subject to subsection (d) shall cause or attempt to cause such an employer to discriminate against an employee in violation of subsection (d).

(f) Except as provided in subsection (c), every employer employing at least two (2) employees during a work week shall, in any work week in which the employer is subject to this chapter, pay each of the employees in any work week beginning on or after October 1, 1998, and before March 1, 1999, wages of not less than four dollars and twenty-five cents (\$4.25) per hour.

(g) Except as provided in subsections (c) and ~~(f);~~ **(k)**, every employer employing at least two (2) employees during a work week shall, in any work week in which the employer is subject to this chapter, pay each of the employees in any work week beginning on or after March 1, 1999, **and before September 1, 2006**, wages of not less than five dollars and fifteen cents (\$5.15) an hour.

(h) Except as provided in subsections (c) and (k), every employer employing at least two (2) employees during a work week shall, in any work week in which the employer is subject to this chapter, pay each of the employees in any work week beginning on or after September 1, 2006, wages of not less than six dollars and fifteen cents (\$6.15) an hour.

(i) Except as provided in subsections (c) and (k), every employer employing at least two (2) employees during a work week shall, in any work week in which the employer is subject to this chapter, pay each of the employees in any work week beginning on or after September 1, 2007, wages of not less than seven dollars (\$7) an hour.

~~(h);~~ **(j)** This section does not apply if an employee:

- (1) provides companionship services to the aged and infirm (as

defined in 29 CFR 552.6); and

(2) is employed by an employer or agency other than the family or household using the companionship services, as provided in 29 CFR 552.109 (a).

~~(f);~~ **(k)** This subsection applies only to an employee who has not attained the age of twenty (20) years. Instead of the rates prescribed by subsections (c), (f), ~~and~~ (g), **(h), and (i)**, an employer may pay an employee of the employer, during the first ninety (90) consecutive calendar days after the employee is initially employed by the employer, a wage which is not less than:

- (1) four dollars and twenty-five cents (\$4.25) per hour, effective March 1, 1999;**
- (2) four dollars and seventy-five cents (\$4.75) per hour, effective September 1, 2006; and**
- (3) six dollars and ten cents (\$6.10) per hour, effective September 1, 2007.**

However, no employer may take any action to displace employees (including partial displacements such as reduction in hours, wages, or employment benefits) for purposes of hiring individuals at the wage authorized in this subsection.

~~(f);~~ **(l)** Except as otherwise provided in this section, no employer shall employ any employee for a work week longer than forty (40) hours unless the employee receives compensation for employment in excess of the hours above specified at a rate not less than one and one-half (1.5) times the regular rate at which ~~he~~ **the employee** is employed.

~~(h);~~ **(m)** For purposes of this section the following apply:

- (1) "Overtime compensation" means the compensation required by subsection ~~(f);~~ **(l).**
- (2) "Compensatory time" and "compensatory time off" mean hours during which an employee is not working, which are not counted as hours worked during the applicable work week or other work period for purposes of overtime compensation, and for which the employee is compensated at the employee's regular rate.
- (3) "Regular rate" means the rate at which an employee is employed is considered to include all remuneration for employment paid to, or on behalf of, the employee, but is not considered to include the following:

(A) Sums paid as gifts, payments in the nature of gifts made at Christmas time or on other special occasions, as a reward for service, the amounts of which are not measured by or dependent on hours worked, production, or efficiency.

(B) Payments made for occasional periods when no work is performed due to vacation, holiday, illness, failure of the employer to provide sufficient work, or other similar cause, reasonable payments for traveling expenses, or other expenses, incurred by an employee in the furtherance of ~~his~~ **the employer's** interests and properly reimbursable by the employer, and other similar payments to an employee which are not made as compensation for ~~his~~ **the employee's** hours of employment.

(C) Sums paid in recognition of services performed during a given period if:

(i) both the fact that payment is to be made and the amount of the payment are determined at the sole discretion of the employer at or near the end of the period and not pursuant to any prior contract, agreement, or promise causing the employee to expect the payments regularly;

(ii) the payments are made pursuant to a bona fide profit sharing plan or trust or bona fide thrift or savings plan, meeting the requirements of the administrator set forth in appropriately issued regulations, having due regard among other relevant factors, to the extent to which the amounts paid to the employee are determined without regard to hours of work, production, or efficiency; or

(iii) the payments are talent fees paid to performers, including announcers, on radio and television programs.

(D) Contributions irrevocably made by an employer to a trustee or third person pursuant to a bona fide plan for providing old age, retirement, life, accident, or health insurance or similar benefits for employees.

(E) Extra compensation provided by a premium rate paid for certain hours worked by the employee in any day or work week because those hours are hours worked in excess of eight (8) in a day or in excess of the maximum work week applicable to the employee under subsection ~~(j)~~ (I) or in excess of the employee's normal working hours or regular working hours, as the case may be.

(F) Extra compensation provided by a premium rate paid for work by the employee on Saturdays, Sundays, holidays, or regular days of rest, or on the sixth or seventh day of the work week, where the premium rate is not less than one and one-half (1.5) times the rate established in good faith for like work performed in nonovertime hours on other days.

(G) Extra compensation provided by a premium rate paid to the employee, in pursuance of an applicable employment contract or collective bargaining agreement, for work outside of the hours established in good faith by the contract or agreement as the basic, normal, or regular workday (not exceeding eight (8) hours) or work week (not exceeding the maximum work week applicable to the employee under subsection ~~(j)~~ (I)) where the premium rate is not less than one and one-half (1.5) times the rate established in good faith by the contract or agreement for like work performed during the workday or work week.

~~(j)~~ (n) No employer shall be considered to have violated subsection ~~(j)~~ (I) by employing any employee for a work week in excess of that specified in subsection ~~(j)~~ (I) without paying the compensation for overtime employment prescribed therein if the employee is so employed:

(1) in pursuance of an agreement, made as a result of collective bargaining by representatives of employees certified as bona fide by the National Labor Relations Board, which provides that no employee shall be employed more than one thousand forty (1,040) hours during any period of twenty-six (26) consecutive weeks; or

(2) in pursuance of an agreement, made as a result of collective bargaining by representatives of employees certified as bona fide by the National Labor Relations Board, which provides that during a specified period of fifty-two (52) consecutive weeks the employee shall be employed not more than two thousand two hundred forty (2,240) hours and shall be guaranteed not less than one thousand eight hundred forty (1,840) hours (or not less than forty-six (46) weeks at the normal number of hours worked per week, but not less than thirty (30) hours per week) and not more than two thousand eighty (2,080) hours of employment for which the employee shall receive compensation for all hours guaranteed or worked at rates not less than those applicable under the agreement to the work performed and for all hours in excess of the guaranty which are also in excess of the maximum work week applicable to the employee under subsection ~~(j)~~ (I) or two thousand eighty (2,080) in that period at rates not less than one and one-half (1.5) times the regular rate at which the employee is employed.

~~(m)~~ (o) No employer shall be considered to have violated subsection ~~(j)~~ (I) by employing any employee for a work week in excess of the maximum work week applicable to the employee under subsection ~~(j)~~ (I) if the employee is employed pursuant to a bona fide individual contract, or pursuant to an agreement made as a result of collective bargaining by representatives of employees, if the duties of the employee necessitate irregular hours of work, and the contract or agreement includes the following:

(1) Specifies a regular rate of pay of not less than the minimum hourly rate provided in subsections (c), (f), (g), ~~and (h)~~, (i), ~~and (k)~~ (whichever is applicable) and compensation at not less than one and one-half (1.5) times that rate for all hours worked in excess of the maximum work week.

(2) Provides a weekly guaranty of pay for not more than sixty ~~(60)~~ hours based on the rates so specified.

~~(m)~~ (p) No employer shall be considered to have violated subsection ~~(j)~~ (I) by employing any employee for a work week in excess of the maximum work week applicable to the employee under that subsection if, pursuant to an agreement or understanding arrived at between the employer and the employee before performance of the

work, the amount paid to the employee for the number of hours worked by ~~him~~ the employee in the work week in excess of the maximum work week applicable to the employee under that subsection:

(1) in the case of an employee employed at piece rates, is computed at piece rates not less than one and one-half (1.5) times the bona fide piece rates applicable to the same work when performed during nonovertime hours;

(2) in the case of an employee performing two (2) or more kinds of work for which different hourly or piece rates have been established, is computed at rates not less than one and one-half (1.5) times those bona fide rates applicable to the same work when performed during nonovertime hours; or

(3) is computed at a rate not less than one and one-half (1.5) times the rate established by the agreement or understanding as the basic rate to be used in computing overtime compensation thereunder, provided that the rate so established shall be substantially equivalent to the average hourly earnings of the employee, exclusive of overtime premiums, in the particular work over a representative period of time;

and if the employee's average hourly earnings for the work week exclusive of payments described in this section are not less than the minimum hourly rate required by applicable law, and extra overtime compensation is properly computed and paid on other forms of additional pay required to be included in computing the regular rate.

~~(n)~~ (q) Extra compensation paid as described in this section shall be creditable toward overtime compensation payable pursuant to this section.

~~(p)~~ (r) No employer shall be considered to have violated subsection ~~(j)~~ (I) by employing any employee of a retail or service establishment for a work week in excess of the applicable work week specified therein, if:

(1) the regular rate of pay of the employee is in excess of one and one-half (1.5) times the minimum hourly rate applicable to the employee under section 2 of this chapter; and

(2) more than half of the employee's compensation for a representative period (not less than one (1) month) represents commissions on goods or services.

In determining the proportion of compensation representing commissions, all earnings resulting from the application of a bona fide commission rate shall be considered commissions on goods or services without regard to whether the computed commissions exceed the draw or guarantee.

~~(q)~~ (s) No employer engaged in the operation of a hospital or an establishment which is an institution primarily engaged in the care of the sick, the aged, or the mentally ill or defective who reside on the premises shall be considered to have violated subsection ~~(j)~~ (I) if, pursuant to an agreement or understanding arrived at between the employer and the employee before performance of the work, a work period of fourteen (14) consecutive days is accepted in lieu of the work week of seven (7) consecutive days for purposes of overtime computation and if, for ~~his~~ the employee's employment in excess of eight (8) hours in any workday and in excess of eighty (80) hours in that fourteen (14) day period, the employee receives compensation at a rate not less than one and one-half (1.5) times the regular rate at which the employee is employed.

~~(r)~~ (t) No employer shall employ any employee in domestic service in one (1) or more households for a work week longer than forty (40) hours unless the employee receives compensation for that employment in accordance with subsection ~~(j)~~ (I).

~~(s)~~ (u) In the case of an employee of an employer engaged in the business of operating a street, a suburban or an interurban electric railway, or a local trolley or motorbus carrier (regardless of whether or not the railway or carrier is public or private or operated for profit or not for profit), in determining the hours of employment of such an employee to which the rate prescribed by subsection ~~(j)~~ (I) applies, there shall be excluded the hours the employee was employed in charter activities by the employer if both of the following apply:

(1) The employee's employment in the charter activities was pursuant to an agreement or understanding with the employer arrived at before engaging in that employment.

(2) If employment in the charter activities is not part of the employee's regular employment.

(†) (v) Any employer may employ any employee for a period or periods of not more than ten (10) hours in the aggregate in any work week in excess of the maximum work week specified in subsection (†) (l) without paying the compensation for overtime employment prescribed in subsection (†) (l), if during that period or periods the employee is receiving remedial education that:

- (1) is provided to employees who lack a high school diploma or educational attainment at the eighth grade level;
- (2) is designed to provide reading and other basic skills at an eighth grade level or below; and
- (3) does not include job specific training.

(†) (w) Subsection (†) (l) does not apply to an employee of a motion picture theater.

(†) (x) Subsection (†) (l) does not apply to an employee of a seasonal amusement or recreational establishment, an organized camp, or a religious or nonprofit educational conference center that is exempt under the federal Fair Labor Standards Act of 1938, as amended (29 U.S.C. 213)."

Renumber all SECTIONS consecutively.

(Reference is to HB 1267 as printed January 26, 2006.)

DAY

Representative Whetstone rose to a point of order, citing Rule 80, stating that the motion was not germane to the bill. The Speaker ruled the point was well taken and the motion was out of order.

APPEAL OF THE RULING OF THE CHAIR

Mr. Speaker: We hereby appeal the ruling of the Chair that Representative Day's amendment (1267-1) is not germane to House Bill 1267.

Amendment 1 is germane to House Bill 1267. Both amendment 1 and House Bill 1267 concern regulation of employment.

PELATH
DAY

The Speaker yielded the gavel to the Speaker Pro Tempore, Representative Turner.

The question was, Shall the ruling of the Chair be sustained? Roll Call 104: yeas 51, nays 46. The ruling of the Chair was sustained.

The Speaker Pro Tempore yielded the gavel to the Speaker.

There being no further amendments, the bill was ordered engrossed.

House Bill 1285

Representative Heim called down House Bill 1285 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Representative Pflum was excused for the rest of the day.

House Bill 1286

Representative Duncan called down House Bill 1286 for second reading. The bill was read a second time by title.

HOUSE MOTION (Amendment 1286-1)

Mr. Speaker: I move that House Bill 1286 be amended to read as follows:

Page 2, line 16, after "rules" insert "**by July 1, 2007**".

Page 2, line 17, delete "authorize a person not employed by the bureau".

Page 2, line 18, delete "administer" and insert "**establish standards for persons administering**".

Page 2, line 18, delete "for the bureau." and insert "**and the provisions of the operational skills test**".

(Reference is to HB 1286 as printed January 25, 2006.)

DUNCAN

Motion prevailed. The bill was ordered engrossed.

House Bill 1287

Representative Duncan called down House Bill 1287 for second reading. The bill was read a second time by title.

HOUSE MOTION (Amendment 1287-2)

Mr. Speaker: I move that House Bill 1287 be amended to read as follows:

Page 2, between lines 8 and 9, begin a new paragraph and insert:

"(e) Notwithstanding any other provision of this chapter, on July 1, 2006, all funds held by the authority pursuant to this section and section 18 of this chapter shall be transferred to the department to be used according to this section."

Page 6, after line 16, begin a new paragraph and insert:

"SECTION 14. [EFFECTIVE JULY 1, 2006] (a) The funds that remain in the reserve fund on June 30, 2006, for future toll bridges over the Ohio River to be located within the same county in which the bridge subject to IC 8-16-1-26, as amended by this act, is located shall be transferred to the Indiana department of transportation on July 1, 2006.

(b) This SECTION expires January 1, 2007."

(Reference is to HB 1287 as printed January 24, 2006.)

DUNCAN

Motion prevailed.

HOUSE MOTION (Amendment 1287-3)

Mr. Speaker: I move that House Bill 1287 be amended to read as follows:

Page 2, between lines 8 and 9, begin a new paragraph and insert:

"(e) Money collected for the use of a bridge subject to this section may also be allocated to the department and used by the department for the maintenance of a toll bridge facility that is:

- (1) located within the same county in which the bridge subject to this section is located; and**

(2) owned by the state, the federal government, or a federally authorized bridge commission; after the department or the authority assumes the duty to maintain the bridge."

(Reference is to HB 1287 as printed January 24, 2006.)

VAN HAAFTEN

Upon request of Representatives VanHaaften and Stilwell, the Speaker ordered the roll of the House to be called. Roll Call 105: yeas 48, nays 48. Motion failed.

HOUSE MOTION (Amendment 1287-4)

Mr. Speaker: I move that House Bill 1287 be amended to read as follows:

Page 3, delete lines 2 through 42.

Page 4, delete lines 1 through 34.

Page 5, delete lines 28 through 38.

Renumber all SECTIONS consecutively.

(Reference is to HB 1287 as printed January 24, 2006.)

DUNCAN

Motion prevailed.

HOUSE MOTION (Amendment 1287-1)

Mr. Speaker: I move that House Bill 1287 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 8-15-2-14.5, AS AMENDED BY P.L.214-2005, SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)]: Sec. 14.5. (a) Subject to subsection (b) and the provisions and requirements of any trust agreement providing for the issuance of toll road revenue bonds and only to the extent permitted by such trust agreement, the authority shall fix the tolls for any toll road under its jurisdiction.

(b) Notwithstanding any other law, after December 31, 2005, the authority may increase or decrease tolls for a toll road only if the tolls for all classes of vehicles operating on the toll road are increased or decreased at the same time by the same percentage amount."

Page 6, after line 16, begin a new paragraph and insert:

"SECTION 16. [EFFECTIVE JANUARY 1, 2006

(RETROACTIVE)] The increase or decrease of a toll or a schedule of tolls after December 31, 2005, in violation of IC 8-15-2-14.5(b), as added by this act, is void. Any rule adopted after December 31, 2005, in violation of IC 8-15-2-14.5(b), as added by this act, is void. The publisher of the Indiana Administrative Code and Indiana Register shall remove any rule voided by this SECTION from the Indiana Administrative Code.

SECTION 17. An emergency is declared for this act."

Renumber all SECTIONS consecutively.

(Reference is to HB 1287 as printed January 24, 2006.)

FRY

Upon request of Representatives Fry and Cheney, the Speaker ordered the roll of the House to be called. Roll Call 106: yeas 47, nays 51. Motion failed. The bill was ordered engrossed.

House Bill 1306

Representative Bright called down House Bill 1306 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

House Bill 1312

Representative Behning called down House Bill 1312 for second reading. The bill was read a second time by title.

HOUSE MOTION (Amendment 1312-3)

Mr. Speaker: I move that House Bill 1312 be amended to read as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning education and to make an appropriation.

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 20-23-3-7, AS ADDED BY P.L.1-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 7. (a) If a school lunch fund is established under section 5 of this chapter, ~~or a textbook rental fund is established under section 6 of this chapter~~, the receipts and expenditures for ~~each~~ the program shall be made to and from the ~~proper~~ fund without appropriation or the application of other laws relating to the budgets of local governmental units.

(b) If ~~either the program or both programs under sections 5 and 6 section 5~~ of this chapter ~~are~~ is operated through the extracurricular account, the township trustee shall approve the amount of the bond of the treasurer of the extracurricular account in an amount the township trustee considers necessary to protect the account for all funds coming into the hands of the treasurer.

SECTION 2. IC 20-26-5-4, AS ADDED BY P.L.1-2005, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. In carrying out the school purposes of a school corporation, the governing body acting on the school corporation's behalf has the following specific powers:

(1) In the name of the school corporation, to sue and be sued and to enter into contracts in matters permitted by applicable law.

(2) To take charge of, manage, and conduct the educational affairs of the school corporation and to establish, locate, and provide the necessary schools, school libraries, other libraries where permitted by law, other buildings, facilities, property, and equipment.

(3) To appropriate from the school corporation's general fund an amount, not to exceed the greater of three thousand dollars (\$3,000) per budget year or one dollar (\$1) per pupil, not to exceed twelve thousand five hundred dollars (\$12,500), based on the school corporation's previous year's average daily membership (as defined in IC 21-3-1.6-1.1) to promote the best interests of the school corporation through:

(A) the purchase of meals, decorations, memorabilia, or awards;

(B) provision for expenses incurred in interviewing job applicants; or

(C) developing relations with other governmental units.

(4) To:

(A) Acquire, construct, erect, maintain, hold, and contract for construction, erection, or maintenance of real estate, real estate improvements, or an interest in real estate or real estate improvements, as the governing body considers necessary for school purposes, including buildings, parts of buildings, additions to buildings, rooms, gymnasiums, auditoriums, playgrounds, playing and athletic fields, facilities for physical training, buildings for administrative, office, warehouse, repair activities, or housing school owned buses, landscaping, walks, drives, parking areas, roadways, easements and facilities for power, sewer, water, roadway, access, storm and surface water, drinking water, gas, electricity, other utilities and similar purposes, by purchase, either outright for cash (or under conditional sales or purchase money contracts providing for a retention of a security interest by the seller until payment is made or by notes where the contract, security retention, or note is permitted by applicable law), by exchange, by gift, by devise, by eminent domain, by lease with or without option to purchase, or by lease under IC 21-5-10, IC 21-5-11, or IC 21-5-12.

(B) Repair, remodel, remove, or demolish, or to contract for the repair, remodeling, removal, or demolition of the real estate, real estate improvements, or interest in the real estate or real estate improvements, as the governing body considers necessary for school purposes.

(C) Provide for energy conservation measures through utility energy efficiency programs or under a guaranteed energy savings contract as described in IC 36-1-12.5.

(5) To acquire personal property or an interest in personal property as the governing body considers necessary for school purposes, including buses, motor vehicles, equipment, apparatus, appliances, books, furniture, and supplies, either by cash purchase or under conditional sales or purchase money contracts providing for a security interest by the seller until payment is made or by notes where the contract, security, retention, or note is permitted by applicable law, by gift, by devise, by loan, or by lease with or without option to purchase and to repair, remodel, remove, relocate, and demolish the personal property. All purchases and contracts delineated under the powers given under subdivision (4) and this subdivision are subject solely to applicable law relating to purchases and contracting by municipal corporations in general and to the supervisory control of state agencies as provided in section 6 of this chapter.

(6) To sell or exchange real or personal property or interest in real or personal property that, in the opinion of the governing body, is not necessary for school purposes, in accordance with IC 20-26-7, to demolish or otherwise dispose of the property if, in the opinion of the governing body, the property is not necessary for school purposes and is worthless, and to pay the expenses for the demolition or disposition.

(7) To lease any school property for a rental that the governing body considers reasonable or to permit the free use of school property for:

(A) civic or public purposes; or

(B) the operation of a school age child care program for children five (5) years of age through fourteen (14) years of age that operates before or after the school day, or both, and during periods when school is not in session;

if the property is not needed for school purposes. Under this subdivision, the governing body may enter into a long term lease with a nonprofit corporation, community service organization, or other governmental entity, if the corporation, organization, or other governmental entity will use the property to be leased for civic or public purposes or for a school age child care program. However, if payment for the property subject to a long term lease is made from money in the school corporation's debt service fund, all proceeds from the long term lease must be deposited in the school corporation's debt service fund so long as payment for the property has not been made. The governing body may, at the governing body's option, use the procedure specified in IC 36-1-11-10 in leasing property

under this subdivision.

(8) To:

(A) Employ, contract for, and discharge superintendents, supervisors, principals, teachers, librarians, athletic coaches (whether or not they are otherwise employed by the school corporation and whether or not they are licensed under IC 20-28-5), business managers, superintendents of buildings and grounds, janitors, engineers, architects, physicians, dentists, nurses, accountants, teacher aides performing noninstructional duties, educational and other professional consultants, data processing and computer service for school purposes, including the making of schedules, the keeping and analyzing of grades and other student data, the keeping and preparing of warrants, payroll, and similar data where approved by the state board of accounts as provided below, and other personnel or services as the governing body considers necessary for school purposes.

(B) Fix and pay the salaries and compensation of persons and services described in this subdivision.

(C) Classify persons or services described in this subdivision and to adopt schedules of salaries or compensation.

(D) Determine the number of the persons or the amount of the services employed or contracted for as provided in this subdivision.

(E) Determine the nature and extent of the duties of the persons.

The compensation, terms of employment, and discharge of teachers are, however, subject to and governed by the laws relating to employment, contracting, compensation, and discharge of teachers. The compensation, terms of employment, and discharge of bus drivers is subject to and governed by laws relating to employment, contracting, compensation, and discharge of bus drivers. The forms and procedures relating to the use of computer and data processing equipment in handling the financial affairs of the school corporation must be submitted to the state board of accounts for approval to the end that the services are used by the school corporation when the governing body determines that it is in the best interest of the school corporation while at the same time providing reasonable accountability for the funds expended.

(9) Notwithstanding the appropriation limitation in subdivision (3), when the governing body by resolution considers a trip by an employee of the school corporation or by a member of the governing body to be in the interest of the school corporation, including attending meetings, conferences, or examining equipment, buildings, and installation in other areas, to permit the employee to be absent in connection with the trip without any loss in pay and to refund to the employee or to the member the employee's or member's reasonable hotel and board bills and necessary transportation expenses. To pay teaching personnel for time spent in sponsoring and working with school related trips or activities.

(10) To transport children to and from school, when in the opinion of the governing body the transportation is necessary, including considerations for the safety of the children and without regard to the distance the children live from the school, the transportation to be otherwise in accordance with applicable law.

(11) To provide a lunch program for a part or all of the students attending the schools of the school corporation, including the establishment of kitchens, kitchen facilities, kitchen equipment, lunch rooms, the hiring of the necessary personnel to operate the lunch program, and the purchase of material and supplies for the lunch program, charging students for the operational costs of the lunch program, fixing the price per meal or per food item. To operate the lunch program as an extracurricular activity, subject to the supervision of the governing body. To participate in a surplus commodity or lunch aid program.

(12) To purchase textbooks ~~to and furnish the textbooks without cost or to rent textbooks to students; to participate in a textbook aid program; all~~ in accordance with applicable law. **A school corporation may not conduct a textbook rental program for students enrolled in the school corporation.**

(13) To accept students transferred from other school corporations and to transfer students to other school corporations in accordance with applicable law.

(14) To levy taxes, to make budgets, to appropriate funds, and to disburse the money of the school corporation in accordance with applicable law. To borrow money against current tax collections and otherwise to borrow money, in accordance with IC 21-2-21.

(15) To purchase insurance or to establish and maintain a program of self-insurance relating to the liability of the school corporation or the school corporation's employees in connection with motor vehicles or property and for additional coverage to the extent permitted and in accordance with IC 34-13-3-20. To purchase additional insurance or to establish and maintain a program of self-insurance protecting the school corporation and members of the governing body, employees, contractors, or agents of the school corporation from liability, risk, accident, or loss related to school property, school contract, school or school related activity, including the purchase of insurance or the establishment and maintenance of a self-insurance program protecting persons described in this subdivision against false imprisonment, false arrest, libel, or slander for acts committed in the course of the persons' employment, protecting the school corporation for fire and extended coverage and other casualty risks to the extent of replacement cost, loss of use, and other insurable risks relating to property owned, leased, or held by the school corporation. To:

(A) participate in a state employee health plan under IC 5-10-8-6.6;

(B) purchase insurance; or

(C) establish and maintain a program of self-insurance;

to benefit school corporation employees, including accident, sickness, health, or dental coverage, provided that a plan of self-insurance must include an aggregate stop-loss provision.

(16) To make all applications, to enter into all contracts, and to sign all documents necessary for the receipt of aid, money, or property from the state government, the federal government, or from any other source.

(17) To defend any member of the governing body or any employee of the school corporation in any suit arising out of the performance of the member's or employee's duties for or employment with, the school corporation, if the governing body by resolution determined that the action was taken in good faith. To save any member or employee harmless from any liability, cost, or damage in connection with the performance, including the payment of legal fees, except where the liability, cost, or damage is predicated on or arises out of the bad faith of the member or employee, or is a claim or judgment based on the member's or employee's malfeasance in office or employment.

(18) To prepare, make, enforce, amend, or repeal rules, regulations, and procedures for the government and management of the schools, property, facilities, and activities of the school corporation, the school corporation's agents, employees, and pupils and for the operation of the governing body, which rules, regulations, and procedures may be designated by an appropriate title such as "policy handbook", "bylaws", or "rules and regulations".

(19) To ratify and approve any action taken by a member of the governing body, an officer of the governing body, or an employee of the school corporation after the action is taken, if the action could have been approved in advance, and in connection with the action to pay the expense or compensation permitted under IC 20-26-1 through IC 20-26-5, IC 20-26-7, IC 21-2-19, and IC 21-2-21 or any other law.

(20) To exercise any other power and make any expenditure in carrying out the governing body's general powers and purposes provided in this chapter or in carrying out the powers delineated in this section which is reasonable from a business or educational standpoint in carrying out school purposes of the school corporation, including the acquisition of property or the employment or contracting for services, even though the power or expenditure is not specifically set out in this chapter. The specific powers set out in this section do not limit the general

grant of powers provided in this chapter except where a limitation is set out in IC 20-26-1 through IC 20-26-5, IC 20-26-7, IC 21-2-19, and IC 21-2-21 by specific language or by reference to other law.

SECTION 3. IC 20-26-5-17, AS ADDED BY P.L.1-2005, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 17. (a) If a school lunch fund is established under section 15 of this chapter, ~~and a textbook rental fund is established under section 16 of this chapter,~~ the receipts and expenditures from ~~a~~ the fund for the program to which the fund relates shall be made to and from the fund without appropriation or the application of other statutes and rules relating to the budgets of municipal corporations.

(b) If ~~either~~ the lunch program ~~or textbook rental program~~ is handled through the extracurricular account, the governing body of the school corporation shall approve the amount of the bond of the treasurer of the extracurricular account in an amount considered by it sufficient to protect the account for all funds coming into the hands of the treasurer of the account.

SECTION 4. IC 20-26-12-1, AS ADDED BY P.L.1-2005, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) Except as provided in ~~subsections subsection (b) and (c)~~ and notwithstanding any other law, each governing body shall purchase from a contracting publisher, at a price equal to or less than the net contract price, the textbooks adopted by the state board and selected by the proper local officials, and shall ~~rent~~ provide these textbooks to each student enrolled in a public school that is:

- (1) in compliance with the minimum certification standards of the board; and
- (2) located within the attendance unit served by the governing body.

~~(b) This section does not prohibit the purchase of textbooks at the option of a student or the providing of free textbooks by the governing body under sections 6 through 21 of this chapter.~~

~~(c)~~ (b) This section does not prohibit a governing body from suspending the operation of this section under a contract entered into under IC 20-26-15.

SECTION 5. IC 20-26-12-2, AS ADDED BY P.L.1-2005, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) A governing body may purchase from a contracting publisher, at a price equal to or less than the net contract price, any textbook adopted by the state board and selected by the proper local officials. The governing body may rent these textbooks to students enrolled in any public school of another school corporation or any nonpublic school that is:

- (1) in compliance with the minimum certification standards of the state board; and
- (2) located within the attendance unit served by the governing body.

The annual rental rate may not exceed twenty-five percent (25%) of the retail price of the textbooks.

(b) Notwithstanding subsection (a), the governing body may not assess a rental fee of more than fifteen percent (15%) of the retail price of a textbook that has been:

- (1) adopted for usage by students under IC 20-20-5;
- (2) extended for usage by students under IC 20-20-5-2; and
- (3) paid for through rental fees previously collected.

(c) A school corporation may not rent textbooks under this section to any students attending a school operated by the school corporation.

~~(c)~~ (d) This section does not limit other laws.

SECTION 6. IC 20-26-12-22, AS ADDED BY P.L.1-2005, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 22. If a school corporation purchases textbooks on a time basis:

- (1) the schedule for payments shall coincide with ~~student payments the distributions~~ to the school corporation for textbook rental; under IC 21-3-1.7-9.6 for textbooks; and
- (2) the schedule must not require the school corporation to assume a greater burden than payment of twenty-five percent (25%) within thirty (30) days after the beginning of the school year immediately following delivery by the contracting

publisher with the school corporation's promissory note evidencing the unpaid balance.

SECTION 7. IC 20-26-12-23, AS ADDED BY P.L.1-2005, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 23. (a) A school corporation may:

- (1) borrow money to buy textbooks; and
- (2) issue notes, maturing serially in not more than six (6) years and payable from its ~~general~~ textbook fund, to secure the loan.

However, when an adoption is made by the state board for less than six (6) years, the period for which the notes may be issued is limited to the period for which that adoption is effective.

(b) Notwithstanding subsection (a), a school township may not borrow money to purchase textbooks unless a petition requesting such an action and bearing the signatures of twenty-five percent (25%) of the resident taxpayers of the school township has been presented to and approved by the township trustee and township board.

SECTION 8. IC 20-26-12-26, AS ADDED BY P.L.1-2005, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 26. If a family that purchased textbooks from a school corporation moves during the school term from one (1) school corporation to another within the state, the corporation from which they move shall:

- (1) evaluate the affected children's textbooks; and
- (2) offer to purchase the textbooks at a reasonable price. ~~for resale to any family that moves into that corporation during a school term.~~

SECTION 9. IC 20-26-12.4 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]:

Chapter 12.4. Textbooks for Public School Students

Sec. 1. As used in this chapter, "school corporation" includes a charter school.

Sec. 2. As used in this chapter, "student" means a student, including a transfer student, who is enrolled in a school corporation.

Sec. 3. As used in this chapter, "textbook" includes the following:

- (1) Instructional materials that are used by students for more than one (1) year, including materials used in special education and gifted and talented classes.
- (2) Workbooks and consumable instructional materials that are used by students for not more than one (1) school year, including workbooks, consumable textbooks, and other consumable instructional materials that are used in special education and gifted and talented classes.
- (3) Developmentally appropriate materials used:
 - (A) for instruction in kindergarten through grade 3, laboratories, and children's literature programs; and
 - (B) instead of items described in subdivisions (1) through (2).

Sec. 4. As used in this chapter, "textbook fund" refers to the fund established under IC 21-2-22.

Sec. 5. (a) The governing body of each school corporation shall do the following:

- (1) Purchase and maintain a sufficient number of textbooks to meet the needs of each student.
- (2) Appropriate from the textbook fund established under IC 21-2-22 the money necessary to purchase textbooks.
- (3) Loan free of charge to each student all textbooks prescribed for the student's grade or classes.
- (4) Prescribe guidelines for the following:
 - (A) The availability of textbooks to students.
 - (B) The care and custody of textbooks by students.
 - (C) The return of textbooks by students.

(5) Provide facilities for the safekeeping of textbooks.

(6) Fumigate or destroy textbooks at the times and under regulations prescribed by local and state health authorities or determined by the governing body.

(b) A school corporation may not conduct a textbook rental program for a school year that begins after June 30, 2006.

Sec. 6. The parent of a student who is loaned a textbook under this chapter is financially responsible for the following according to the guidelines adopted by the school corporation under this

chapter:

- (1) Wear, except for reasonable wear, on a textbook.
- (2) Loss, mutilation, or defacement of a textbook.
- (3) Failure to return a textbook to the school corporation upon request.
- (4) Other matters concerning the use and care of textbooks.

Sec. 7. (a) If a student transfers to a school corporation other than the one in which the student has legal settlement (as determined under IC 20-26-11), the governing body of the school corporation to which the student transfers shall provide textbooks to the student.

(b) The annual settlement between school corporations for tuition of transferred students must include amounts for furnishing textbooks to transferred students at a rate determined by the state board.

Sec. 8. A governing body may sell textbooks to students who wish to purchase textbooks at the price stipulated in the contracts under which the books are purchased by the school corporation. Money from sales to students must be paid into the textbook fund.

SECTION 10. IC 20-26-12.6 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]:

Chapter 12.6. Reimbursement for Textbooks for Students in Accredited Nonpublic Schools

Sec. 1. This chapter applies to students who are enrolled in accredited nonpublic schools.

Sec. 2. The department shall reimburse a parent or an emancipated minor for expenses for textbooks that are incurred for the parent's child or the emancipated minor.

Sec. 3. There is no financial eligibility requirement to receive reimbursement under this chapter.

Sec. 4. The amount of reimbursement under this chapter is the amount established in IC 21-2-23.

Sec. 5. An accredited nonpublic school may assist a parent or an emancipated minor in obtaining reimbursement under this chapter.

Sec. 6. The following apply to an application for reimbursement under this chapter:

- (1) The department shall provide an application form for reimbursement under this chapter.
- (2) The department shall establish a date for the filing of applications.
- (3) The applicant shall certify the following in the application to the department:

(A) The name, age, and grade level of the student who is enrolled in an accredited nonpublic school and for whom the applicant seeks reimbursement.

(B) The expense incurred in providing textbooks to the student.

(C) That each textbook included in the reimbursement request (except those textbooks used for special education or gifted and talented classes) has been:

- (i) adopted by the state board under IC 20-20-5; or
- (ii) waived by the state board under IC 20-26-12-28.

(D) That the amount of reimbursement requested for each textbook does not exceed twenty percent (20%) of the costs incurred for the textbook, as provided in the textbook adoption list in each year of the adoption cycle.

(E) Any other information required by the department, including the following:

- (i) Copies of invoices or purchase orders used to acquire textbooks.
- (ii) Information about the student.
- (iii) Information about the nonpublic school.

Sec. 7. The department shall use money in the supplemental textbook fund established by IC 21-2-23-4 to make reimbursements under this chapter.

Sec. 8. The department may adopt rules under IC 4-22-2 to implement this chapter.

SECTION 11. IC 20-33-5-3, AS ADDED BY P.L.1-2005, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. (a) If a parent of a child or an emancipated minor who is enrolled in a public school, in kindergarten

or grades 1 through 12, meets the financial eligibility standard under section 2 of this chapter, the parent or the emancipated minor may not be required to pay the fees for school books, supplies, or other any required class fees. The fees shall be paid by the school corporation that the child attends.

(b) The school corporation may apply for a reimbursement under section 7 of this chapter from the department of the costs incurred under subsection (a).

(c) ~~To the extent the reimbursement received by the school corporation is less than the textbook rental fee assessed for textbooks that have been adopted under IC 20-20-5-1 through IC 20-20-5-4 or waived under IC 20-26-12-28, the school corporation may request that the parent or emancipated minor pay the balance of this amount.~~

SECTION 12. IC 20-33-5-9, AS ADDED BY P.L.1-2005, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 9. (a) If a parent of a child or an emancipated minor who is enrolled in an accredited nonpublic school meets the financial eligibility standard under section 2 of this chapter, the parent or the emancipated minor may receive a reimbursement from the department as provided in this chapter for the costs or some of the costs incurred by the parent or emancipated minor in fees ~~that are reimbursable under section 7 of this chapter for items described in subsection (g).~~ The extent to which the fees are reimbursable under this section may not exceed the percentage rates of reimbursement under ~~section 7 of this chapter: subsection (g).~~ In addition, if a child enrolls in an accredited nonpublic school after the initial request for reimbursement is filed under subsection (d), the parent of the child or the emancipated minor who meets the financial eligibility standard **under section 2 of this chapter** may receive a reimbursement from the department for the costs or some of the costs incurred in fees that are reimbursable under ~~section 7 of this chapter subsection (g)~~ by applying to the accredited nonpublic school for assistance. In this case, this section applies. However, section 10 of this chapter applies to the making of the supplemental request for reimbursement by the principal or other designee of the accredited nonpublic school.

(b) The department shall provide each accredited nonpublic school with sufficient application forms for assistance, prescribed by the state board of accounts.

(c) Each accredited nonpublic school shall provide the parents or emancipated minors who wish to apply for assistance with:

- (1) the appropriate application forms; and
- (2) any assistance needed in completing the application form.

(d) The parent or emancipated minor shall submit the application to the accredited nonpublic school. The accredited nonpublic school shall make a determination of financial eligibility subject to appeal by the parent or emancipated minor.

(e) If a determination is made that the applicant is eligible for assistance, subsection (a) applies.

(f) To be guaranteed some level of reimbursement from the department, the principal or other designee shall submit the reimbursement request before November 1 of a school year.

(g) In its request, the principal or other designee shall certify to the department:

- (1) the number of students who are enrolled in the accredited nonpublic school and who are eligible for assistance under this chapter;
- (2) the costs incurred in providing:

(A) textbooks (including textbooks used in special education and high ability classes); and

(B) workbooks and consumable textbooks (including workbooks, consumable textbooks, and other consumable teaching materials that are used in special education and high ability classes) that are used by students for not more than one (1) school year;

(3) that each textbook described in subdivision (2)(A) and included in the reimbursement request (except those textbooks used in special education classes and high ability classes) has been adopted by the state board under IC 20-20-5-1 through 20-20-5-4 or has been waived by the state board of education under IC 20-26-12-28;

(4) that the amount of reimbursement requested for each textbook under subdivision (3) does not exceed twenty percent

(20%) of the costs incurred for the textbook, as provided in the textbook adoption list in each year of the adoption cycle;

(5) that the amount of reimbursement requested for each workbook or consumable textbook (or other consumable teaching material used in special education and high ability classes) under subdivision (2)(B), if applicable, does not exceed one hundred percent (100%) of the costs incurred for the workbook or consumable textbook (or other consumable teaching material used in special education and high ability classes);

(6) that the amount of reimbursement requested for each textbook used in special education and high ability classes is amortized for the number of years in which the textbook is used; and

(7) any other information required by the department, including copies of purchase orders used to acquire consumable teaching materials used in special education and high ability classes.

(h) If the amount of reimbursement requested before November 1 of a particular school year exceeds the amount of money appropriated to the department for this purpose, the department shall proportionately reduce the amount of reimbursement to each accredited nonpublic school. An accredited nonpublic school may submit a supplemental reimbursement request under section 10 of this chapter. The parent or emancipated minor is entitled to receive a supplemental reimbursement only if funds are available. The department shall proportionately reduce the amount of supplemental reimbursement to the accredited nonpublic schools if the amount requested exceeds the amount of money available to the department for this purpose.

(i) The accredited nonpublic school shall distribute the money received under this chapter to the appropriate eligible parents or emancipated minors.

~~(j) Section 7(h) of this chapter applies to parents or emancipated minors as described in this section.~~

(j) Parents receiving other governmental assistance or aid that considers educational needs in computing the entire amount of assistance granted may not be denied assistance if the applicant's total family income does not exceed the standards established by this chapter.

(k) The accredited nonpublic school and the department shall maintain complete and accurate information concerning the number of applicants determined to be eligible for assistance under this section.

(l) The state board shall adopt rules under IC 4-22-2 to implement this section.

SECTION 13. IC 20-33-5-10, AS ADDED BY P.L.1-2005, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 10. (a) The principal or other designee of an accredited nonpublic school may make a supplemental request for reimbursement from the department after April 1 but before May 1 of a school year for some or all of the additional costs incurred in fees that are reimbursable under ~~section 7~~ **section 9** of this chapter by the parent of a child or emancipated minor who enrolls in the accredited nonpublic school after the initial request for reimbursement is filed under section 9(f) of this chapter.

(b) In its supplemental request, the principal or other designee must certify to the department the following:

(1) The number of additional students who enrolled in the accredited nonpublic school as described in subsection (a).

(2) The costs incurred in providing the materials described in section 9(g)(2) of this chapter pertaining to the number of additional students.

(3) The same information as described in section 9(g)(3) through 9(g)(7) of this chapter as pertaining to the number of additional students.

(c) This section applies only if there are funds available. These supplemental distributions shall be made by the department in accordance with section 9(h) of this chapter.

SECTION 14. IC 20-33-5-14, AS ADDED BY P.L.1-2005, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 14. (a) The school textbook reimbursement contingency fund is established to reimburse ~~school corporations~~, eligible parents of children who attend accredited

nonpublic schools and emancipated minors who attend accredited nonpublic schools as provided in section 9 of this chapter for assistance provided under this chapter. The fund consists of money appropriated to the fund by the general assembly. The state superintendent shall administer the fund.

(b) The treasurer of state shall invest the money in the school textbook reimbursement contingency fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

SECTION 15. IC 21-2-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. (a) The trustee, with the advice and consent of the township board, shall use ~~such the~~ "seminary lands school account" for the following educational purposes:

~~(1) Each year the trustee shall pay to the parent or legal guardian of any child, whose residence is within said township, initial cost for the rental of textbooks used in any elementary or secondary school which has been duly accredited by the state of Indiana. Such reimbursement for the rental of school books shall be for the initial yearly rental charge only, and books subsequently lost or destroyed shall not be paid for from this account.~~

~~(2) (1)~~ Students who are residents of ~~said the~~ township for the last two (2) years of their secondary education and who still reside within ~~said the~~ township shall receive financial assistance ~~in an amount~~ not to exceed an amount determined by the trustee and the township board during an annual review of higher education fees and tuition costs of post-high school education at any accredited college, university, junior college, ~~or~~ vocational **school**, or trade school. Amounts to be paid to each eligible student shall be set annually following this review. The amount ~~so~~ paid each year shall be equitable for every eligible student without regard to race, religion, creed, sex, disability, or national origin and must be based on the number of students and the amount of funds available each year.

~~(3) (2)~~ A person who has been a permanent resident of the township continuously for at least two (2) years and who needs educational assistance for job training or retraining may apply to the trustee of the township for financial assistance. The trustee and the township board shall review each application and make assistance available according to the need of each applicant and the availability of funds.

~~(4) (3)~~ If all the available funds are not used in any one (1) year, ~~said the~~ unused funds shall be retained in ~~said the~~ account by the trustee for use in succeeding years.

(b) The bond required by law for the trustee shall be increased by an amount equal to the sum of the seminary township school fund and the average annual rental income from ~~said~~ seminary lands.

(c) All funds and accounts provided in this chapter and the accumulation thereof shall be periodically audited and examined in the same manner provided by law for public money.

(d) All expenditures and payments made under this chapter shall be made only after necessary expenditures for the protection and maintenance of the seminary land in good and safe condition are first made from the annual rental income.

SECTION 16. IC 21-2-4-2, AS AMENDED BY P.L.246-2005, SECTION 183, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. The governing body of each school corporation in Indiana shall establish a debt service fund for the payment of:

(1) all debt and other obligations arising out of funds borrowed or advanced for school buildings when purchased from the proceeds of a bond issue for capital construction;

(2) a lease to provide capital construction;

(3) interest on emergency and temporary loans;

(4) all debt and other obligations arising out of funds borrowed or advanced for the purchase or lease of school buses when purchased or leased from the proceeds of a bond issue, or from money obtained from a loan made under IC 20-27-4-5, for that purpose;

(5) all debt and other obligations arising out of funds borrowed to pay judgments against the school corporation;

(6) all debt and other obligations arising out of funds borrowed

to purchase equipment; or

(7) all unreimbursed costs of textbooks for the school corporation's students who were eligible for free or reduced lunches in the previous school year.

The term "debt service" shall include but not be limited to lease rental obligations, school bonds and coupons and civil bond obligations assumed by school corporations reorganized pursuant to IC 20-23-4, and any interest cost on emergency and temporary loans but shall not include the repayment of the principal of the emergency and temporary loans obtained for benefit of any other fund. All receipts and disbursements authorized by law for school funds and tax levies for the lease rental fund, bond fund, sinking fund, civil bond obligation fund, and payment of interest on emergency and temporary loans shall be received in and disbursed from the debt service fund. The governing body may transfer the amount levied to cover unreimbursed costs of textbooks under subdivision (7) to the school corporation's textbook rental fund, or extracurricular account.

SECTION 17. IC 21-2-11-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. The governing body of each school corporation in the state of Indiana shall establish a general fund for the operation and maintenance of local schools and shall levy a tax therefor for the fund. All receipts and disbursements heretofore authorized by law for school funds and tax levies for the tuition fund, special school fund, special fund, vocational fund, recreation fund, compulsory education fund, school library fund, high school library fund, public employee's retirement fund, operating fund, transportation tax, and county wide school tax shall on and after January 1, 1968, be received in and disbursed from the general fund. A tax levy and rate for the general fund shall be established by the governing body of each school corporation for the 1968 calendar year and all succeeding each calendar years. Any balances of all the aforesaid funds on January 1, 1968 shall be transferred to the general fund year.

SECTION 18. IC 21-2-11-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. Any self-supporting programs maintained by any school corporation, including but not limited to school lunch, and rental or sale of textbooks, may be established as separate funds, separate and apart from the general fund, if no local tax rate is established therefor for the programs.

SECTION 19. IC 21-2-22 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]:

Chapter 22. Textbook Fund

Sec. 1. As used in this chapter, "fund" refers to the textbook fund established by section 3 of this chapter.

Sec. 2. As used in this chapter, "textbook" has the meaning set forth in IC 20-26-12.4-3.

Sec. 3. A school corporation shall establish a textbook fund.

Sec. 4. Money in the fund may be used only for the following purposes:

- (1) Paying interest and principal on loans obtained by the school corporation to purchase textbooks.
- (2) Implementing IC 20-26-12, including the purchase, storage, distribution, or repair of textbooks.

Sec. 5. A school corporation shall deposit in the fund the following:

- (1) Distributions under IC 21-3-1.7-9.6.
- (2) Receipts from sales of textbooks.
- (3) Other revenues designated for the textbook fund.

Sec. 6. Money in the fund at the end of a school year or fiscal year does not revert to the school general fund.

SECTION 20. IC 21-2-23 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]:

Chapter 23. Supplemental Textbook Fund

Sec. 1. As used in this chapter, "department" refers to the department of education.

Sec. 2. As used in this chapter, "fund" refers to the supplemental textbook fund established by section 4 of this chapter.

Sec. 3. As used in this chapter, "textbook" has the meaning set forth in IC 20-26-12.4-3.

Sec. 4. The supplemental textbook fund is established to provide money for reimbursements for textbooks under IC 20-26-12.6 to parents of accredited nonpublic school students and emancipated minors who are students in accredited nonpublic schools.

Sec. 5. The department shall administer the fund. Expenses of administering the fund shall be paid from money in the fund.

Sec. 6. The fund consists of appropriations by the general assembly.

Sec. 7. The treasurer of state shall invest the money in the fund not currently needed to meet obligations of the fund in the same manner as other public funds may be invested. Interest earned from investment of the fund shall be credited to the fund.

Sec. 8. Money in the fund at the end of a state fiscal year does not revert to the state general fund.

Sec. 9. (a) Subject to balances available in the fund, the treasurer of state shall pay the amount determined under subsection (b). The amount is payable in the manner provided in IC 20-26-12.6.

(b) The amount of annual reimbursement for textbooks may not exceed eighty five dollars (\$85) for a student who is enrolled full time in an accredited nonpublic school.

SECTION 21. IC 21-3-1.7-9, AS AMENDED BY P.L.246-2005, SECTION 200, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 9. (a) Subject to the amount appropriated by the general assembly for tuition support, the amount that a school corporation is entitled to receive in tuition support for a year is the amount determined in section 8.2 of this chapter.

(b) If the total amount to be distributed as tuition support under this chapter, in 2005 for enrollment adjustment grants under section 9.5 of this chapter (before its repeal), for textbook grants under section 9.6 of this chapter, for academic honors diploma awards under section 9.8 of this chapter, in 2005 for supplemental remediation grants under section 9.9 of this chapter (before its repeal), for primetime distributions under IC 21-1-30, for special education grants under IC 21-3-2.1, and for vocational education grants under IC 21-3-12 for a particular year, exceeds:

- (1) three billion seven hundred fifty-nine million three hundred thousand dollars (\$3,759,300,000) in 2005;
- (2) three billion seven hundred fifty-four ninety-six million seven three hundred thousand dollars (\$3,754,700,000) (\$3,796,300,000) in 2006; and
- (3) three billion seven eight hundred forty-seven thirty-one million two three hundred five thousand dollars (\$3,747,200,000) (\$3,831,305,000) in 2007;

the amount to be distributed for tuition support under this chapter to each school corporation during each of the last six (6) months of the year shall be proportionately reduced so that the total reductions equal the amount of the excess. The amount of the reduction for a particular school corporation is equal to the total amount of the excess multiplied by a fraction. The numerator of the fraction is the amount of the distribution for tuition support that the school corporation would have received if a reduction were not made under this section. The denominator of the fraction is the total amount that would be distributed for tuition support to all school corporations if a reduction were not made under this section.

SECTION 22. IC 21-3-1.7-9.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 9.6. (a) In addition to the distributions under sections 8.2 and 9.8 of this chapter, in each calendar year a school corporation is eligible for an amount for a textbook grant that is equal to the school corporation's current ADM multiplied by eighty-five dollars (\$85).

(b) The distribution received under this section:

- (1) shall be deposited in a school corporation's textbook fund and used only for the purposes specified in IC 21-2-22-4; and
- (2) is not included in the calculation of previous year revenue under IC 21-3-1.7-3.1(a).

SECTION 23. IC 21-3-1.7-9.8, AS AMENDED BY P.L.246-2005, SECTION 201, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 9.8. (a) In addition to the distributions under section 8.2 and 9.6 of this chapter, a school

corporation is eligible for an honors diploma award in the amount determined under STEP TWO of the following formula:

STEP ONE: Determine the number of the school corporation's eligible pupils who successfully completed an academic honors diploma program in the school year ending in the previous calendar year.

STEP TWO: Multiply the STEP ONE amount by nine hundred dollars (\$900).

(b) An amount received by a school corporation as an honors diploma award may be used only for:

(1) any:

- (A) staff training;
- (B) program development;
- (C) equipment and supply expenditures; or
- (D) other expenses;

directly related to the school corporation's academic honors diploma program; and

(2) the school corporation's program for high ability students.

(c) A governing body that does not comply with this section for a school year is not eligible to receive an award under this section for the following school year.

SECTION 24. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2006]: IC 20-23-3-6; IC 20-26-5-16; IC 20-26-12-6; IC 20-26-12-7; IC 20-26-12-8; IC 20-26-12-9; IC 20-26-12-10; IC 20-26-12-11; IC 20-26-12-12; IC 20-26-12-13; IC 20-26-12-14; IC 20-26-12-15; IC 20-26-12-16; IC 20-26-12-17; IC 20-26-12-18; IC 20-26-12-19; IC 20-26-12-20; IC 20-26-12-21; IC 20-33-5-5; IC 20-33-5-7; IC 20-33-5-8.

SECTION 25. [EFFECTIVE JULY 1, 2006] (a) A school corporation may not conduct a textbook rental program for a school year beginning after June 30, 2006.

(b) On July 1, 2006, a school corporation shall transfer any unencumbered money in any fund or account used for textbook rental fees to the textbook fund established by IC 21-2-22, as added by this act. The money transferred under this SECTION may be used for any purpose for which other money in the textbook fund may be used.

(c) Notwithstanding IC 21-3-1.7-9.6, as added by this act, a school corporation is entitled in 2006 to only fifty percent (50%) of the amount of the textbook grant specified in IC 21-3-1.7-9.6, as added by this act, to be distributed in six (6) monthly installments.

(d) An amount sufficient to make the distributions of the textbook grants under IC 21-3-1.7-9.6, as added by this act, is appropriated from the state general fund to the department of education beginning July 1, 2006, and ending June 30, 2007.

(e) This SECTION expires January 1, 2008.

SECTION 26. [EFFECTIVE JULY 1, 2006] (a) The department of local government finance shall reduce the:

- (1) maximum permissible ad valorem property tax levy imposed by IC 6-1.1-18.5-3; and
- (2) township assistance levy;

of each township to reflect the effect of this act on the obligation of township trustees to pay school fees under IC 20-33-5-12.

(b) The department of local government finance shall reduce the:

- (1) maximum permissible ad valorem property tax levy imposed by IC 6-1.1-19-1.5; and
- (2) general fund property tax levy;

of each school corporation that operated an elementary school library or a high school library on June 30, 2006, to provide free textbooks to resident students before July 1, 2006, to reflect the transfer of textbook funding to the textbook fund established by IC 21-2-22, as added by this act.

(c) Any loan:

- (1) obtained to purchase textbooks (as defined in IC 20-26-12.4-3, as added by this act); and
- (2) payable from a school general fund before July 1, 2006;

shall be paid from the textbook fund after June 30, 2006.

(d) This SECTION expires January 1, 2008.

SECTION 27. [EFFECTIVE JULY 1, 2006] (a) There is appropriated from the state general fund to the supplemental textbook fund established by IC 21-2-23-4, as added by this act,

beginning July 1, 2006, and ending June 30, 2007, an amount equal to eighty-five dollars (\$85) for each student enrolled in an accredited nonpublic school for whom reimbursement for textbooks is provided under IC 20-26-12.6, as added by this act.

(b) This SECTION expires June 30, 2007."

Page 20, delete line 7.

Renumber all SECTIONS consecutively.

(Reference is to HB 1312, Digest Correction, as printed January 27, 2006.)

PELATH

Representative Whetstone rose to a point of order, citing Rule 118, stating that the motion was attempting to incorporate into House Bill 1312 a bill pending before the House.

After discussion Representative Whetstone withdrew the point of order and rose to a point of order, citing Rule 80, stating that the motion was not germane to the bill. The Speaker ruled the point was well taken and the motion was out of order.

APPEAL OF THE RULING OF THE CHAIR

Mr. Speaker: We hereby appeal the ruling of the Chair that Representative Pelath's amendment (1312-3) is not germane to House Bill 1312.

Amendment 3 is germane to House Bill 1312. Both Amendment 3 and House Bill 1312 concern various education matters.

PELATH
FRY

The Speaker yielded the gavel to the Speaker Pro Tempore, Representative Turner.

The question was, Shall the ruling of the Chair be sustained? Roll Call 107: yeas 50, nays 47. The ruling of the Chair was sustained.

The Speaker Pro Tempore yielded the gavel to the Speaker.

HOUSE MOTION (Amendment 1312-2)

Mr. Speaker: I move that House Bill 1312 be amended to read as follows:

Page 19, line 33, delete "or" and insert "**and**".

Page 19, line 34, after "a" insert "**registered nurse**".

(Reference is to HB 1312 as printed January 27, 2006.)

HINKLE

Representative C. Brown rose to a point of order, citing Rule 80, stating that the motion was not germane to the bill. The Speaker ruled the point was not well taken.

The question then was on the motion of Representative Hinkle. Motion prevailed.

HOUSE MOTION (Amendment 1312-4)

Mr. Speaker: I move that House Bill 1312 be amended to read as follows:

Page 5, between lines 29 and 30, begin a new line triple block indented and insert:

"(v) IC 20-26-9 (school breakfast and lunch program)."

Page 5, line 30, delete "(v)" and insert "(vi)".

Page 5, line 31, delete "(vi)" and insert "(vii)".

Page 5, line 34, delete "(vii)" and insert "(viii)".

Page 5, line 35, delete "(viii)" and insert "(ix)".

Page 5, line 36, delete "(ix)" and insert "(x)".

Page 5, line 38, delete "(x)" and insert "(xi)".

Page 5, line 39, delete "(xi)" and insert "(xii)".

Page 5, line 40, delete "(xii)" and insert "(xiii)".

Page 5, line 41, delete "(xiii)" and insert "(xiv)".

Page 6, line 1, delete "(xiv)" and insert "(xv)".

Page 6, line 3, delete "(xv)" and insert "(xvi)".

Page 6, line 4, delete "(xvi)" and insert "(xvii)".

Page 6, line 5, delete "(xvii)" and insert "(xviii)".

Page 6, line 6, delete "(xviii)" and insert "(xix)".

Page 6, line 7, delete "(xix)" and insert "(xx)".

Page 6, line 8, delete "(xx)" and insert "(xxi)".

Page 6, line 9, delete "(xxi)" and insert "(xxii)".
 Page 6, line 10, delete "(xxii)" and insert "(xxiii)".
 (Reference is to HB 1312 as printed January 27, 2006.)

MICON

Motion prevailed.

HOUSE MOTION
 (Amendment 1312-5)

Mr. Speaker: I move that House Bill 1312 be amended to read as follows:

Page 20, between lines 6 and 7, begin a new paragraph and insert: "SECTION 24. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "committee" refers to the interim study committee on education issues.

(b) There is established the interim study committee on education issues.

(c) The committee shall study various education issues concerning public elementary and secondary schools, including the following:

- (1) Use of independent contractors to provide student services and health services.
- (2) Teacher and administrator contracts.
- (3) Public works projects.
- (4) School building inspections.
- (5) Compulsory school attendance and attendance officers.
- (6) Twenty-first century scholars program.
- (7) School property use.
- (8) State regulation of public elementary and secondary schools.

(d) The legislative services agency shall provide staff support to the committee. The committee shall operate under the policies governing study committees adopted by the legislative council.

(e) The affirmative votes of a majority of the voting members appointed to the committee are required for the committee to take action on any measure, including final reports.

(f) This SECTION expires December 31, 2006."
 (Reference is to HB 1312 as printed January 27, 2006.)

CHENEY

After discussion, Representative Cheney withdrew the motion.

HOUSE MOTION
 (Amendment 1312-1)

Mr. Speaker: I move that House Bill 1312 be amended to read as follows:

Page 3, between lines 30 and 31, begin a new paragraph and insert: "SECTION 4. IC 20-26-9-2, AS ADDED BY P.L.1-2005, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) This subsection applies before July 1, 2007. As used in this chapter, "qualifying school building" refers to a public school building in which:

- (1) at least twenty-five percent (25%) of the students who were enrolled at that school building during the prior school year qualified for free or reduced price lunches under guidelines established under 42 U.S.C. 1758(b); and
- (2) lunches are served to students.

(b) This subsection applies after June 30, 2007. As used in this chapter, "qualifying school building" refers to a public school building in which:

- (1) at least fifteen percent (15%) of the students who were enrolled at that school building during the prior school year qualified for free or reduced price lunches under guidelines established under 42 U.S.C. 1758(b); and
- (2) lunches are served to students."

Renumber all SECTIONS consecutively.

(Reference is to HB 1312 as printed January 27, 2006.)

DAY

Motion prevailed. The bill was ordered engrossed.

House Bill 1318

Representative Borrer called down House Bill 1318 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

House Bill 1332

Representative Friend called down House Bill 1332 for second reading. The bill was read a second time by title.

HOUSE MOTION
 (Amendment 1332-1)

Mr. Speaker: I move that House Bill 1332 be amended to read as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning the environment.

Page 3, between lines 32 and 33, begin a new paragraph and insert: "SECTION 5. IC 13-17-3-16 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. (a) As used in this section, "outdoor furnace or boiler" means a device that:

- (1) is located outside a residence or other building that has not more than twenty thousand (20,000) square feet of floor space;
- (2) uses wood as a primary fuel to heat air or water; and
- (3) pumps the heated air or water back into the residence or other building for heating purposes.

(b) The board may not adopt rules that regulate emissions from outdoor furnaces or boilers."

Renumber all SECTIONS consecutively.

(Reference is to HB 1332 as printed January 27, 2006.)

KOCH

Motion prevailed. The bill was ordered engrossed.

House Bill 1338

Representative T. Harris called down House Bill 1338 for second reading. The bill was read a second time by title.

HOUSE MOTION
 (Amendment 1338-1)

Mr. Speaker: I move that House Bill 1338 be amended to read as follows:

Page 1, delete lines 1 through 17.

Page 2, delete lines 1 through 18, begin a new paragraph and insert:

"SECTION 1. IC 20-28-5-3, AS ADDED BY P.L.246-2005, SECTION 157, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. (a) The department shall designate:

- (1) the grade point average required for each type of license; and
- (2) the types of licenses to which the teachers' minimum salary laws apply, including nonrenewable one (1) year limited licenses.

(b) The department shall determine details of licensing not provided in this chapter, including requirements regarding the following:

- (1) The conversion of one (1) type of license into another.
- (2) The accreditation of teacher education schools and departments.
- (3) The exchange and renewal of licenses.
- (4) The endorsement of another state's license.
- (5) The acceptance of credentials from teacher education institutions of another state.
- (6) The academic and professional preparation for each type of license.
- (7) The granting of permission to teach a high school subject area related to the subject area for which the teacher holds a license.
- (8) The issuance of licenses on credentials.
- (9) The type of license required for each school position.
- (10) The size requirements for an elementary school requiring a licensed principal.
- (11) Any other related matters.

The department shall establish at least one (1) system for renewing a teaching license that does not require a graduate degree.

(c) Beginning July 1, 2006, the board, before issuing an initial teaching license at any grade level to an undergraduate

individual seeking an initial teaching license, shall require the applicant for a license to show evidence that the applicant meets one (1) of the following:

(1) Has successfully completed a course approved by the board in:

- (A) cardiopulmonary resuscitation that includes a test demonstration on a mannequin;
- (B) removing a foreign body causing an obstruction in an airway; and
- (C) the Heimlich maneuver.

(2) Holds a valid certification in the procedures described in subdivision (1) issued by:

- (A) the American Red Cross;
- (B) the American Heart Association; or
- (C) a comparable organization or institution approved by the board.

(3) Has physical limitations that make it impracticable for the applicant to complete a course or certification described in subdivision (1) or subdivision (2).

(d) The department shall periodically publish bulletins regarding:

- (1) the details described in subsection (b);
- (2) information on the types of licenses issued;
- (3) the rules governing the issuance of each type of license; and
- (4) other similar matters."

Page 4, delete lines 2 through 42, begin a new paragraph and insert:

"SECTION 4. IC 34-30-14-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 2.5. A teacher who:**

- (1) meets the requirement of IC 20-28-5-3(c); and
- (2) performs:

- (A) cardiopulmonary resuscitation; or
- (B) the Heimlich maneuver;

on or removes a foreign body that is obstructing an airway of another person in the course of employment as a teacher; is not liable in a civil action for damages resulting from an act or omission occurring during the performance of a function under this section unless the act or omission constitutes gross negligence or willful and wanton misconduct.

SECTION 5. [EFFECTIVE UPON PASSAGE] (a) Although IC 20-28-5-3(c), as amended by this act, applies beginning July 1, 2006, a college or university located in Indiana may recommend to a person who has been accepted in a teacher training program before July 1, 2006, that the person should meet the requirements of IC 20-28-5-3(c), as amended by this act.

(b) This SECTION expires June 30, 2008.

SECTION 6. An emergency is declared for this act."

Page 5, delete lines 1 through 2.

Renumber all SECTIONS consecutively.

(Reference is to HB 1338 as printed January 27, 2006.)

DUNCAN

Motion prevailed. The bill was ordered engrossed.

House Bill 1344

Representative Hinkle called down House Bill 1344 for second reading. The bill was read a second time by title.

HOUSE MOTION (Amendment 1344-2)

Mr. Speaker: I move that House Bill 1344 be amended to read as follows:

Page 2, delete lines 37 through 41, begin a new paragraph and insert:

"(h) The chairperson of the commission may not call for a meeting of the commission unless both of the following conditions are met:

- (1) A majority of the voters voting on a local public question placed on the ballot in Vanderburgh County who reside in a municipality (as defined in IC 36-1-2-11) vote in favor of continuing to study consolidation in Vanderburgh County.
- (2) A majority of the voters voting on a local public question placed on the ballot in Vanderburgh County who do not

reside in a municipality (as defined in IC 36-1-2-11) vote in favor of continuing to study consolidation in Vanderburgh County."

Page 4, delete lines 24 through 29, begin a new paragraph and insert:

"(j) The chairperson of the commission shall call for a meeting of the commission to begin the study required under SECTION 1 of this act only if both of the following conditions are met:

- (1) A majority of the voters voting on a local public question placed on the ballot in Vanderburgh County who reside in a municipality (as defined in IC 36-1-2-11) vote in favor of continuing to study consolidation in Vanderburgh County.
- (2) A majority of the voters voting on a local public question placed on the ballot in Vanderburgh County who do not reside in a municipality (as defined in IC 36-1-2-11) vote in favor of continuing to study consolidation in Vanderburgh County."

(Reference is to HB 1344 as printed January 27, 2006.)

VAN HAAFTEN

Motion prevailed.

HOUSE MOTION (Amendment 1344-3)

Mr. Speaker: I move that House Bill 1344 be amended to read as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 3-5-2-49.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: **Sec. 49.1. "Township" means the following:**

- (1) A township in a county not having a consolidated city.
- (2) A township district (as defined in IC 36-6-4.1-5) in a county having a consolidated city.

SECTION 2. IC 3-8-1-30 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: **Sec. 30. A candidate for the office of small claims judge of a small claims court (as defined in IC 33-33-49-5.2) must:**

- (1) be a United States citizen upon taking office;
- (2) either:
 - (A) have resided in the township from which the candidate is elected for at least one (1) year upon taking office; or
 - (B) have been elected as a small claims court judge in the township before 1999;
- (3) be of high moral character and reputation; and
- (4) be admitted to the practice of law in Indiana upon filing a declaration of candidacy or petition of nomination or upon the filing of a certificate of candidate selection under IC 3-13-1-15 or IC 3-13-2-8.

SECTION 3. IC 3-8-1-31 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: **Sec. 31. A candidate for the office of small claims constable of a small claims court must:**

- (1) have resided in the township for more than one (1) year upon taking office; and
- (2) be at least twenty-one (21) years old upon taking office.

SECTION 4. IC 3-8-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: **Sec. 5. A declaration of candidacy for:**

- (1) a federal office;
- (2) a state office;
- (3) a legislative office; or
- (4) the local office of:
 - (A) judge of a circuit, superior, probate, or county or small claims court; or
 - (B) prosecuting attorney of a judicial circuit;

shall be filed with the secretary of state.

SECTION 5. IC 3-10-1-19, AS AMENDED BY P.L.221-2005, SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: **Sec. 19. (a) The ballot for a primary election shall be printed in substantially the following form**

for all the offices for which candidates have qualified under IC 3-8:

OFFICIAL PRIMARY BALLOT

_____ Party

For paper ballots, print: To vote for a person, make a voting mark (X or ✓) on or in the box before the person's name in the proper column. For punch card ballots, print: To vote for a person, punch through the chad before the number assigned to the person's name in the proper column. For optical scan ballots, print: To vote for a person, darken or shade in the circle, oval, or square (or draw a line to connect the arrow) that precedes the person's name in the proper column. For optical scan ballots that do not contain a candidate's name, print: To vote for a person, darken or shade in the oval that precedes the number assigned to the person's name in the proper column. For electronic voting systems, print: To vote for a person, touch the screen (or press the button) in the location indicated.

Vote for one (1) only

Representative in Congress

- ☐ (1) AB _____
☐ (2) CD _____
☐ (3) EF _____
☐ (4) GH _____

(b) The offices with candidates for nomination shall be placed on the primary election ballot in the following order:

- (1) Federal and state offices:
 - (A) President of the United States.
 - (B) United States Senator.
 - (C) Governor.
 - (D) United States Representative.
- (2) Legislative offices:
 - (A) State senator.
 - (B) State representative.
- (3) Circuit offices and county judicial offices:
 - (A) Judge of the circuit court, and unless otherwise specified under IC 33, with each division separate if there is more than one (1) judge of the circuit court.
 - (B) Judge of the superior court, and unless otherwise specified under IC 33, with each division separate if there is more than one (1) judge of the superior court.
 - (C) Judge of the probate court.
 - (D) Judge of the county court, with each division separate, as required by IC 33-30-3-3.
 - (E) Prosecuting attorney.
 - (F) Circuit court clerk.
- (4) County offices:
 - (A) County auditor.
 - (B) County recorder.
 - (C) County treasurer.
 - (D) County sheriff.
 - (E) County coroner.
 - (F) County surveyor.
 - (G) County assessor.
 - (H) County commissioner.
 - (I) County council member.
- (5) Township offices:
 - (A) Township assessor.
 - (B) Township trustee.
 - (C) Township board member.
 - (D) ~~Small claims judge. of the small claims court.~~
 - (E) ~~Small claims constable. of the small claims court.~~
- (6) City offices:
 - (A) Mayor.
 - (B) Clerk or clerk-treasurer.
 - (C) Judge of the city court.
 - (D) City-county council member or common council member.
- (7) Town offices:
 - (A) Clerk-treasurer.
 - (B) Judge of the town court.
 - (C) Town council member.

(c) The political party offices with candidates for election shall be placed on the primary election ballot in the following order after the offices described in subsection (b):

- (1) Precinct committeeman.

- (2) State convention delegate.

(d) The following offices and public questions shall be placed on the primary election ballot in the following order after the offices described in subsection (c):

- (1) School board offices to be elected at the primary election.
- (2) Other local offices to be elected at the primary election.
- (3) Local public questions.

(e) The offices and public questions described in subsection (d) shall be placed:

- (1) in a separate column on the ballot if voting is by paper ballot;
- (2) after the offices described in subsection (c) in the form specified in IC 3-11-13-11 if voting is by ballot card; or
- (3) either:
 - (A) on a separate screen for each office or public question; or
 - (B) after the offices described in subsection (c) in the form specified in IC 3-11-14-3.5;
 if voting is by an electronic voting system.

(f) A public question shall be placed on the primary election ballot in the following form:

(The explanatory text for the public question,
if required by law.)

"Shall (insert public question)?"

☐ YES

☐ NO

SECTION 6. IC 3-10-2-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 13. The following public officials shall be elected at the general election before their terms of office expire and every four (4) years thereafter:

- (1) Clerk of the circuit court.
- (2) County auditor.
- (3) County recorder.
- (4) County treasurer.
- (5) County sheriff.
- (6) County coroner.
- (7) County surveyor.
- (8) County assessor.
- (9) County commissioner.
- (10) County council member.
- (11) Township trustee.
- (12) Township board member.
- (13) Township assessor.
- (14) ~~Small claims judge. of a small claims court.~~
- (15) ~~Small claims constable. of a small claims court.~~

SECTION 7. IC 3-11-2-12, AS AMENDED BY P.L.2-2005, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 12. The following offices shall be placed on the general election ballot in the following order:

- (1) Federal and state offices:
 - (A) President and Vice President of the United States.
 - (B) United States Senator.
 - (C) Governor and lieutenant governor.
 - (D) Secretary of state.
 - (E) Auditor of state.
 - (F) Treasurer of state.
 - (G) Attorney general.
 - (H) Superintendent of public instruction.
 - (I) United States Representative.
- (2) Legislative offices:
 - (A) State senator.
 - (B) State representative.
- (3) Circuit offices and county judicial offices:
 - (A) Judge of the circuit court, and unless otherwise specified under IC 33, with each division separate if there is more than one (1) judge of the circuit court.
 - (B) Judge of the superior court, and unless otherwise specified under IC 33, with each division separate if there is more than one (1) judge of the superior court.
 - (C) Judge of the probate court.
 - (D) Judge of the county court, with each division separate, as required by IC 33-30-3-3.
 - (E) Prosecuting attorney.

- (F) Clerk of the circuit court.
- (4) County offices:
 - (A) County auditor.
 - (B) County recorder.
 - (C) County treasurer.
 - (D) County sheriff.
 - (E) County coroner.
 - (F) County surveyor.
 - (G) County assessor.
 - (H) County commissioner.
 - (I) County council member.
- (5) Township offices:
 - (A) Township assessor.
 - (B) Township trustee.
 - (C) Township board member.
 - (D) ~~Small claims judge. of the small claims court.~~
 - (E) ~~Small claims constable. of the small claims court.~~
- (6) City offices:
 - (A) Mayor.
 - (B) Clerk or clerk-treasurer.
 - (C) Judge of the city court.
 - (D) City-county council member or common council member.
- (7) Town offices:
 - (A) Clerk-treasurer.
 - (B) Judge of the town court.
 - (C) Town council member.

SECTION 8. IC 3-13-1-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 15. (a) A county chairman filling a candidate vacancy under section 6(a)(2) of this chapter or the chairman of a meeting filling a candidate vacancy under this chapter shall file a written certificate of candidate selection on a form prescribed by the commission stating the following information for each candidate selected:

- (1) The name of each candidate as:
 - (A) the candidate wants the candidate's name to appear on the ballot; and
 - (B) the candidate's name is permitted to appear on the ballot under IC 3-5-7.
- (2) The residence address of each candidate.
- (b) The certificate shall be filed with:
 - (1) the election division for:
 - (A) a committee acting under section 3, 4, 5, or 6(b) of this chapter; or
 - (B) a committee acting under section 6(a) of this chapter to fill a candidate vacancy in the office of judge **or small claims judge** of a circuit, superior, probate, **or county or small claims court** or prosecuting attorney; or
 - (2) the circuit court clerk, for a committee acting under section 6(a) of this chapter to fill a candidate vacancy for a local office not described in subdivision (1).

(c) This subsection applies to a candidate vacancy resulting from a vacancy on the primary election ballot as described in section 2 of this chapter. The certificate required by subsection (a) shall be filed not later than noon July 3 before election day.

(d) This subsection applies to all candidate vacancies not described by subsection (c). The certificate required by subsection (a) shall be filed not more than three (3) days (excluding Saturdays and Sundays) after selection of the candidates.

SECTION 9. IC 3-13-2-8, AS AMENDED BY P.L.2-2005, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 8. (a) The chairman or chairmen filling a candidate vacancy under this chapter shall immediately file a written certificate of candidate selection on a form prescribed by the commission stating the following information for each candidate selected:

- (1) The name of each candidate as:
 - (A) the candidate wants the candidate's name to appear on the ballot; and
 - (B) the candidate's name is permitted to appear on the ballot under IC 3-5-7.
- (2) The residence address of each candidate.
- (b) The certificate shall be filed with:

- (1) the election division for:
 - (A) one (1) or more chairmen acting under section 2, 3, 4, or 5(b) of this chapter; or
 - (B) a committee acting under section 5(b) of this chapter to fill a candidate vacancy for the office of judge **or small claims judge** of a circuit, superior, probate, **or county or small claims court** or prosecuting attorney; or
- (2) the circuit court clerk of the county in which the greatest percentage of the population of the election district is located, for a chairman acting under section 5(a) of this chapter to fill a candidate vacancy for a local office not described in subdivision (1).

(c) The certificate required by subsection (a) shall be filed not more than three (3) days (excluding Saturdays and Sundays) after selection of the candidate.

SECTION 10. IC 3-13-10-5, AS AMENDED BY P.L.119-2005, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 5. (a) This section applies to a vacancy in the office of **small claims judge of a small claims court** or small claims ~~court~~ constable not covered by section 1 of this chapter.

(b) A vacancy shall be filled by the ~~township board at a regular or special meeting. The chairman of the township board shall give notice of the meeting. Except as provided in subsection (c), the meeting shall be held not later than thirty (30) days after the vacancy occurs. The notice must:~~

- ~~(1) be in writing;~~
- ~~(2) state the purpose of the meeting;~~
- ~~(3) state the date, time, and place of the meeting; and~~
- ~~(4) be sent by first class mail to each board member at least ten (10) days before the meeting.~~

~~(c) If a vacancy exists because of the death of a judicial officer, the meeting required by subsection (b) shall be held not later than thirty (30) days after the chairman of the township board receives notice of the death under IC 5-8-6. The chairman of the township board may not give the notice required by subsection (b) until the chairman of the township board receives notice of the death under IC 5-8-6. mayor of the consolidated city.~~

SECTION 11. IC 5-4-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 4. (a) As used in this section, "political subdivision" has the meaning set forth in IC 36-1-2-13.

(b) The copy of the oath under section 2 of this chapter shall be deposited by the person as follows:

- (1) Of all officers whose oath is endorsed on or attached to the commission and whose duties are not limited to a particular county or of a justice, judge, or prosecuting attorney, in the office of the secretary of state.
- (2) Of the circuit court clerk, officers of a political subdivision or school corporation, and **small claims constables, of a small claims court**, in the circuit court clerk's office of the county containing the greatest percentage of the population of the political subdivision or school corporation.
- (3) Of a deputy prosecuting attorney, in the office of the clerk of the circuit court of the county in which the deputy prosecuting attorney resides or serves.

SECTION 12. IC 5-8-3.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 1. (a) An officer who wants to resign shall give written notice of the officer's resignation as follows:

- (1) The governor and lieutenant governor shall notify the principal clerk of the house of representatives and the principal secretary of the senate to act in accordance with Article 5, Section 10 of the Constitution of the State of Indiana. The clerk and the secretary shall file a copy of the notice with the office of the secretary of state.
- (2) A member of the general assembly shall notify the following, whichever applies:
 - (A) A member of the senate shall notify the president pro tempore of the senate.
 - (B) A member of the house of representatives shall notify the speaker of the house of representatives.
- (3) The following officers commissioned by the governor under

IC 4-3-1-5 shall notify the governor:

- (A) An elector or alternate elector for President and Vice President of the United States.
 - (B) The secretary of state, auditor of state, treasurer of state, superintendent of public instruction, or attorney general.
 - (C) An officer elected by the general assembly, the senate, or the house of representatives.
 - (D) A justice of the Indiana supreme court, judge of the Indiana court of appeals, or judge of the Indiana tax court.
 - (E) A judge **or small claims judge** of a circuit, city, county, probate, superior, **or town or township small claims** court.
 - (F) A prosecuting attorney.
 - (G) A circuit court clerk.
 - (H) A county auditor, county recorder, county treasurer, county sheriff, county coroner, or county surveyor.
- (4) An officer of a political subdivision (as defined by IC 36-1-2-13) other than an officer listed in subdivision (3) shall notify the circuit court clerk of the county containing the largest percentage of population of the political subdivision.
- (5) An officer not listed in subdivisions (1) through (4) shall notify the person or entity from whom the officer received the officer's appointment.
- (b) A person or an entity that receives notice of a resignation and does not have the power to fill the vacancy created by the resignation shall, not later than seventy-two (72) hours after receipt of the notice of resignation, give notice of the vacancy to the person or entity that has the power to:

- (1) fill the vacancy; or
- (2) call a caucus for the purpose of filling the vacancy.

SECTION 13. IC 5-10.1-1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 6. "Governing body" means the fiscal body of a county, city, town, **or township, or township district**, a trustee, the township board, board of school commissioners, library board, or any board which by law is authorized to fix a rate of taxation on property of a political subdivision, or any other board which is empowered to administer the affairs of any department of, or associated with, a political subdivision, which department receives revenue independently of, or in addition to, funds obtained from taxation.

SECTION 14. IC 5-10.1-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 7. Political Subdivision. "Political subdivision" as used in this article means a county, city, town, township, **township district**, political body corporate, political entity, local housing authority, public school corporation, public library, public utility of a county, city, town, or township whether the public utility is operated by the city or town or under the terms of a trusteeship for the benefit of the city or town, and a department of, or associated with, a county, city, town, or township, which department receives revenue independently of, or in addition to, funds obtained through taxation. A state agency or a judicial circuit may not be construed as a political subdivision.

SECTION 15. IC 6-1.1-1.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]:

Chapter 1.5. County Assessor Performs Township Assessor Duties

Sec. 1. In a county having a consolidated city, the county assessor has the same duties and responsibilities for the county that the township assessor in a county that does not have a consolidated city has for the township.

SECTION 16. IC 6-1.1-3-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 17. (a) On or before June 1 of each year, each township assessor of a county **not having a consolidated city** shall deliver to the county assessor a list which states by taxing district the total of the personal property assessments as shown on the personal property returns filed with the **township** assessor on or before the filing date of that year. **and in a county with a township assessor under IC 36-6-5-1 in every township the township assessor shall deliver the lists to the county auditor as prescribed in subsection (b):**

(b) On or before July 1 of each year, each county assessor shall certify to the county auditor the assessment value of the personal property in every taxing district.

(c) The department of local government finance shall prescribe the forms required by this section.

SECTION 17. IC 6-1.1-4-13.8, AS AMENDED BY P.L.228-2005, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 13.8. (a) As used in this section, "commission" refers to a county land valuation commission established under subsection (b).

(b) Subject to subsection (1), a county land valuation commission is established in each county for the purpose of determining the value of commercial, industrial, and residential land (including farm homesites) in the county.

(c) The county assessor is chairperson of the commission.

(d) The following are members of the commission:

(1) The county assessor. The county assessor shall cast a vote only to break a tie.

(2) **Except in a county having a consolidated city**, each township assessor, when the respective township land values for that township assessor's township are under consideration. A township assessor serving under this subdivision shall vote on all matters relating to the land values of that township assessor's township.

(3) **Except in a consolidated city**, one (1) township assessor from the county to be appointed by a majority vote of all the township assessors in the county.

(4) One (1) county resident who:

(A) holds a license under IC 25-34.1-3 as a salesperson or broker; and

(B) is appointed by:

- (i) the board of commissioners (as defined in IC 36-3-3-10) for a county having a consolidated city; or
- (ii) the county executive (as defined in IC 36-1-2-5) for a county not described in item (i).

(5) Four (4) individuals who:

(A) are appointed by the county executive (as defined in IC 36-1-2-5); and

(B) represent one (1) of the following four (4) kinds of land in the county:

- (i) Agricultural.
- (ii) Commercial.
- (iii) Industrial.
- (iv) Residential.

Each of the four (4) kinds of land in the county must be represented by one (1) individual appointed under this subdivision.

(6) One (1) individual who:

(A) represents financial institutions in the county; and

(B) is appointed by:

- (i) the board of commissioners (as defined in IC 36-3-3-10) for a county having a consolidated city; or
- (ii) the county executive (as defined in IC 36-1-2-5) for a county not described in item (i).

(e) The term of each member of the commission begins November 1 of the year that precedes by two (2) years the year in which a general reassessment begins under IC 6-1.1-4-4, and ends January 1 of the year in which the general reassessment begins under IC 6-1.1-4-4. The appointing authority may fill a vacancy for the remainder of the vacated term.

(f) The commission shall determine the values of all classes of commercial, industrial, and residential land (including farm homesites) in the county using guidelines determined by the department of local government finance. Not later than November 1 of the year preceding the year in which a general reassessment begins, the commission determining the values of land shall submit the values, all data supporting the values, and all information required under rules of the department of local government finance relating to the determination of land values to the county property tax assessment board of appeals and the department of local government finance. Not later than January 1 of the year in which a general reassessment begins, the county property tax assessment board of appeals shall hold a public hearing in the county concerning those values. The property tax assessment board of appeals shall give notice of the hearing in accordance with IC 5-3-1 and shall hold the hearing after March 31 of the year preceding the year in which the general reassessment

begins and before January 1 of the year in which the general reassessment under IC 6-1.1-4-4 begins.

(g) The county property tax assessment board of appeals shall review the values, data, and information submitted under subsection (f) and may make any modifications it considers necessary to provide uniformity and equality. The county property tax assessment board of appeals shall coordinate the valuation of property adjacent to the boundaries of the county with the county property tax assessment boards of appeals of the adjacent counties using the procedures adopted by rule under IC 4-22-2 by the department of local government finance. If the commission fails to submit land values under subsection (f) to the county property tax assessment board of appeals before January 1 of the year the general reassessment under IC 6-1.1-4-4 begins, the county property tax assessment board of appeals shall determine the values.

(h) The county property tax assessment board of appeals shall give notice to the county and township assessors, **if any**, of its decision on the values. The notice must be given before March 1 of the year the general reassessment under IC 6-1.1-4-4 begins. Not later than twenty (20) days after that notice, the county assessor or a township assessor in the county, **if any**, may request that the county property tax assessment board of appeals reconsider the values. The county property tax assessment board of appeals shall hold a hearing on the reconsideration in the county. The county property tax assessment board of appeals shall give notice of the hearing under IC 5-3-1.

(i) Not later than twenty (20) days after notice to the county assessor and the township assessor, **if any**, is given under subsection (h), a taxpayer may request that the county property tax assessment board of appeals reconsider the values. The county property tax assessment board of appeals may hold a hearing on the reconsideration in the county. The county property tax assessment board of appeals shall give notice of the hearing under IC 5-3-1.

(j) A taxpayer may appeal the value determined under this section as applied to the taxpayer's land as part of an appeal filed under IC 6-1.1-15 after the taxpayer has received a notice of assessment. If a taxpayer that files an appeal under IC 6-1.1-15 requests the values, data, or information received by the county property tax assessment board of appeals under subsection (f), the county property tax assessment board of appeals shall satisfy the request. The department of local government finance may modify the taxpayer's land value and the value of any other land in the township, the county where the taxpayer's land is located, or the adjacent county if the department of local government finance determines it is necessary to provide uniformity and equality.

(k) The county assessor shall notify all township assessors, **if any**, in the county of the values as determined by the commission and as modified by the county property tax assessment board of appeals or department of local government finance under this section. Township assessors shall use the values determined under this section.

(l) After notice to the county assessor and all township assessors in the county, **if any**, a majority of the assessors authorized to vote under this subsection may vote to abolish the county land valuation commission established under subsection (b). Each township assessor, **if any**, and the county assessor has one (1) vote. The county assessor shall give written notice to:

- (1) each member of the county land valuation commission; and
 - (2) each township assessor, **if any**, in the county;
- of the abolishment of the commission under this subsection.

SECTION 18. IC 6-1.1-4-25, AS AMENDED BY P.L.177-2005, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 25. (a) Each township assessor shall keep the assessor's reassessment data and records current by securing the necessary field data and by making changes in the assessed value of real property as changes occur in the use of the real property. The township assessor's records shall at all times show the assessed value of real property in accordance with the provisions of this chapter. The township assessor shall ensure that the county assessor has full access to the assessment records maintained by the township assessor.

(b) The township assessor in a county having a consolidated city, or the county assessor in every other county, shall:

- (1) maintain an electronic data file of:
 - (A) the parcel characteristics and parcel assessments of all

parcels; and

(B) the personal property return characteristics and assessments by return;

for each township in the county as of each assessment date;

(2) maintain the electronic file in a form that formats the information in the file with the standard data, field, and record coding required and approved by:

(A) the legislative services agency; and

(B) the department of local government finance;

(3) transmit the data in the file with respect to the assessment date of each year before October 1 of the year to:

(A) the legislative services agency; and

(B) the department of local government finance;

in a manner that meets the data export and transmission requirements in a standard format, as prescribed by the office of technology established by IC 4-13.1-2-1 and approved by the legislative services agency; and

(4) resubmit the data in the form and manner required under this subsection, upon request of the legislative services agency or the department of local government finance, if data previously submitted under this subsection does not comply with the requirements of this subsection, as determined by the legislative services agency or the department of local government finance.

An electronic data file maintained for a particular assessment date may not be overwritten with data for a subsequent assessment date until a copy of an electronic data file that preserves the data for the particular assessment date is archived in the manner prescribed by the office of technology established by IC 4-13.1-2-1 and approved by the legislative services agency.

SECTION 19. IC 6-1.1-5-14, AS AMENDED BY P.L.88-2005, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 14. Not later than May 15, each assessing official in a county not having a consolidated city shall prepare and deliver to the county assessor a detailed list of the real property listed for taxation in the township. On or before July 1 of each year, each county assessor shall, under oath, prepare and deliver to the county auditor a detailed list of the real property listed for taxation in the county. ~~In a county with an elected township assessor in every township the township assessor shall prepare the real property list.~~ The assessing officials and the county assessor shall prepare the list in the form prescribed by the department of local government finance. The township assessor shall ensure that the county assessor has full access to the assessment records maintained by the township assessor.

SECTION 20. IC 6-1.1-5-5-3, AS AMENDED BY P.L.228-2005, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 3. (a) For purposes of this section, "party" includes:

- (1) a seller of property that is exempt under the seller's ownership; or
- (2) a purchaser of property that is exempt under the purchaser's ownership;

from property taxes under IC 6-1.1-10.

(b) Before filing a conveyance document with the county auditor under IC 6-1.1-5-4, all the parties to the conveyance must complete and sign a sales disclosure form as prescribed by the department of local government finance under section 5 of this chapter. All the parties may sign one (1) form, or if all the parties do not agree on the information to be included on the completed form, each party may sign and file a separate form.

(c) ~~Except as provided in subsection (d),~~ The auditor shall forward each sales disclosure form to the county assessor. The county assessor shall retain the forms for five (5) years. The county assessor shall forward the sales disclosure form data to the department of local government finance and the legislative services agency

~~(1) before January 1, 2005, in an electronic format, if possible; and~~

~~(2) after December 31, 2004, in an electronic format specified jointly by the department of local government finance and the legislative services agency.~~

The county assessor shall forward a copy of the sales disclosure forms to the township assessors, **if any**, in the county. The forms may be used by the county assessing officials, the department of local

government finance, and the legislative services agency for the purposes established in IC 6-1.1-4-13.6, sales ratio studies, equalization, adoption of rules under IC 6-1.1-31-3 and IC 6-1.1-31-6, and any other authorized purpose.

(d) In a county containing a consolidated city, the auditor shall forward the sales disclosure form to the appropriate township assessor. The township assessor shall forward the sales disclosure form to the department of local government finance and the legislative services agency:

- (1) before January 1, 2005; in an electronic format, if possible; and
- (2) after December 31, 2004; in an electronic format specified jointly by the department of local government finance and the legislative services agency.

The forms may be used by the county assessing officials, the department of local government finance, and the legislative services agency for the purposes established in IC 6-1.1-4-13.6, sales ratio studies, equalization, adoption of rules under IC 6-1.1-31-3 and IC 6-1.1-31-6, and any other authorized purpose.

(e) If a sales disclosure form includes the telephone number or Social Security number of a party, the telephone number or Social Security number is confidential.

SECTION 21. IC 6-1.1-5.5-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 12. (a) A party to a conveyance who:

- (1) is required to file a sales disclosure form under this chapter; and
- (2) fails to file a sales disclosure form at the time and in the manner required by this chapter;

is subject to a penalty in the amount determined under subsection (b).

(b) The amount of the penalty under subsection (a) is the greater of:

- (1) one hundred dollars (\$100); or
- (2) twenty-five thousandths percent (0.025%) of the sale price of the real property transferred under the conveyance document.

(c) The township assessor in a county containing a consolidated city, or the county assessor in any other county, shall:

- (1) determine the penalty imposed under this section;
- (2) assess the penalty to the party to a conveyance; and
- (3) notify the party to the conveyance that the penalty is payable not later than thirty (30) days after notice of the assessment.

(d) The county auditor shall:

- (1) collect the penalty imposed under this section;
- (2) deposit penalty collections as required under section 4 of this chapter; and
- (3) notify the county prosecuting attorney of delinquent payments.

(e) The county prosecuting attorney shall initiate an action to recover a delinquent penalty under this section. In a successful action against a person for a delinquent penalty, the court shall award the county prosecuting attorney reasonable attorney's fees.

SECTION 22. IC 6-1.1-8-24, AS AMENDED BY P.L.88-2005, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 24. (a) Each year a township assessor shall assess the fixed property which as of the assessment date of that year is:

- (1) owned or used by a public utility company; and
- (2) located in the township the township assessor serves.

(b) The township assessor shall determine the assessed value of fixed property. **Except as provided in subsection (c), the township assessor shall certify the assessed values to the county assessor on or before April 1 of the year of assessment. However, The county assessor shall review the assessed values and shall certify the assessed values to the department of local government finance on or before April 10 of the year of assessment.**

(c) In a county with an elected township assessor in every township, the township assessor shall certify the list to the department of local government finance. **In a county having a consolidated city, the county assessor shall review the assessed values and shall certify the assessed values list to the department of local government finance on or before April 10 of the year of assessment.**

SECTION 23. IC 6-1.1-18.5-21 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS

[EFFECTIVE JANUARY 1, 2007]: Sec. 21. (a) **The ad valorem property tax levy limits imposed by this chapter do not apply to ad valorem property taxes imposed by a consolidated city to pay or fund any indebtedness assumed, defeased, paid, or refunded under IC 36-3-1-6.1, IC 36-3-1-6.3, or IC 36-6-1.1-4.**

(b) For property taxes first due and payable each year beginning in 2007, the maximum permissible ad valorem property tax levy for a consolidated city is increased each year by an amount equal to the lesser of:

(1) the difference between:

- (A) the maximum permissible ad valorem property tax levy under section 3 of this chapter for the current year for the consolidated city's fire special service district created under IC 36-3-1-6; and
- (B) the amount levied that year for the fire special service district; or

(2) ten percent (10%) of the maximum permissible ad valorem property tax levy under section 3 of this chapter for property taxes first due and payable in 2007 for the consolidated city's fire special service district created under IC 36-3-1-6.

SECTION 24. IC 6-1.1-28-1, AS AMENDED BY P.L.228-2005, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 1. (a) **This section applies to all counties except a county having a consolidated city.** Each county shall have a county property tax assessment board of appeals composed of individuals who are at least eighteen (18) years of age and knowledgeable in the valuation of property. In addition to the county assessor, only one (1) other individual who is an officer or employee of a county or township may serve on the board of appeals in the county in which the individual is an officer or employee. Subject to subsections (d) and (e), the fiscal body of the county shall appoint two (2) individuals to the board. At least one (1) of the members appointed by the county fiscal body must be a certified level two assessor-appraiser. Subject to subsections (d) and (e), the board of commissioners of the county shall appoint two (2) freehold members so that not more than three (3) of the five (5) members ~~may be~~ are of the same political party and so that at least three (3) of the five (5) members are residents of the county. At least one (1) of the members appointed by the board of county commissioners must be a certified level two assessor-appraiser. If the county assessor is a certified level two assessor-appraiser, the board of county commissioners may waive the requirement in this subsection that one (1) of the freehold members appointed by the board of county commissioners must be a certified level two assessor-appraiser. A person appointed to a property tax assessment board of appeals may serve on the property tax assessment board of appeals of another county at the same time. The members of the board shall elect a president. The employees of the county assessor shall provide administrative support to the property tax assessment board of appeals. The county assessor is a voting member of the property tax assessment board of appeals. The county assessor shall serve as secretary of the board. The secretary shall keep full and accurate minutes of the proceedings of the board. A majority of the board that includes at least one (1) certified level two assessor-appraiser constitutes a quorum for the transaction of business. Any question properly before the board may be decided by the agreement of a majority of the whole board.

(b) The county assessor, county fiscal body, and board of county commissioners may agree to waive the requirement in subsection (a) that not more than three (3) of the five (5) members of the county property tax assessment board of appeals may be of the same political party if it is necessary to waive the requirement due to the absence of certified level two Indiana assessor-appraisers:

- (1) who are willing to serve on the board; and
- (2) whose political party membership status would satisfy the requirement in subsection (c)(1). ~~(a).~~

(c) If the board of county commissioners is not able to identify at least two (2) prospective freehold members of the county property tax assessment board of appeals who are:

- (1) residents of the county;
- (2) certified level two Indiana assessor-appraisers; and
- (3) willing to serve on the county property tax assessment board

of appeals;
it is not necessary that at least three (3) of the five (5) members of the county property tax assessment board of appeals be residents of the county.

(d) Except as provided in subsection (e), the term of a member of the county property tax assessment board of appeals appointed under subsection (a):

- (1) is one (1) year; and
- (2) begins January 1.

(e) If:

- (1) the term of a member of the county property tax assessment board of appeals appointed under subsection (a) expires;
- (2) the member is not reappointed; and
- (3) a successor is not appointed;

the term of the member continues until a successor is appointed.

SECTION 25. IC 6-1.1-28-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: **Sec. 1.5. (a) This section applies to a county having a consolidated city. The county property tax assessment board of appeals is established, composed of individuals who are at least eighteen (18) years of age and knowledgeable in the valuation of property. In addition to the county assessor, who serves as a nonvoting member, only one (1) other individual who is an officer or employee of the county may serve on the board of appeals. The fiscal body of the county shall appoint two (2) individuals to the board. At least one (1) of the members appointed by the county fiscal body must be a certified level two Indiana assessor-appraiser. The board of commissioners of the county shall appoint three (3) freehold members so that not more than three (3) of the five (5) voting members are of the same political party and so that at least three (3) of the five (5) voting members are residents of the county. At least one (1) of the members appointed by the board of county commissioners must be a certified level two Indiana assessor-appraiser. One (1) of the members appointed by the board of county commissioners must be a representative of a neighborhood or taxpayer organization located in the county. A person appointed to a property tax assessment board of appeals may serve on the property tax assessment board of appeals of another county at the same time. The members of the board shall elect a president. The employees of the county assessor shall provide administrative support to the property tax assessment board of appeals. The county assessor shall serve as secretary of the board. The secretary shall keep full and accurate minutes of the proceedings of the board. A majority of the voting members of the board that includes at least one (1) certified level two Indiana assessor-appraiser constitutes a quorum for the transaction of business. Any question properly before the board may be decided by the agreement of a majority of the voting members of the board.**

(b) The county fiscal body and board of commissioners of the county may agree to waive the requirement in subsection (a) that not more than three (3) of the five (5) members of the county property tax assessment board of appeals are of the same political party if it is necessary to waive the requirement due to the absence of certified level two Indiana assessor-appraisers:

- (1) who are willing to serve on the board; and**
- (2) whose political party membership status would satisfy the requirement in subsection (a).**

(c) If the board of county commissioners is not able to identify at least two (2) prospective freehold members of the county property tax assessment board of appeals who are:

- (1) residents of the county;**
- (2) certified level two Indiana assessor-appraisers; and**
- (3) willing to serve on the county property tax assessment board of appeals;**

it is not necessary that at least three (3) of the five (5) members of the county property tax assessment board of appeals be residents of the county.

SECTION 26. IC 6-1.1-31.5-3.5, AS AMENDED BY P.L.228-2005, SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: **Sec. 3.5. (a) Until the system described in subsection (e) is implemented, each county**

shall maintain a state certified computer system that has the capacity to:

- (1) process and maintain assessment records;**
- (2) process and maintain standardized property tax forms;**
- (3) process and maintain standardized property assessment notices;**
- (4) maintain complete and accurate assessment records for the county; and**
- (5) process and compute complete and accurate assessments in accordance with Indiana law.**

In a county that does not have a consolidated city and does not have an elected township assessor in every township, the county assessor with the recommendation of the township assessors shall select the computer system used by township assessors and the county assessor in the county. ~~except in a county with an elected township assessor in every township:~~ In a county with that does not have a consolidated city but has an elected township assessor in every township, the elected township assessors shall select a computer system based on a majority vote of the township assessors in the county. In a county that has a consolidated city, the county assessor shall select a computer system.

(b) All information on a computer system referred to in subsection (a) shall be readily accessible to:

- (1) township assessors;**
- (2) the county assessor;**
- (3) the department of local government finance; and**
- (4) members of the county property tax assessment board of appeals.**

(c) The certified system referred to in subsection (a) used by the counties must be:

- (1) compatible with the data export and transmission requirements in a standard format prescribed by the office of technology established by IC 4-13.1-2-1 and approved by the legislative services agency; and**
- (2) maintained in a manner that ensures prompt and accurate transfer of data to the department of local government finance and the legislative services agency.**

(d) All standardized property forms and notices on the certified computer system referred to in subsection (a) shall be maintained by the township assessor and the county assessor in an accessible location and in a format that is easily understandable for use by persons of the county.

(e) The department shall adopt rules before July 1, 2006, for the establishment of:

- (1) a uniform and common property tax management system among all counties that:**
 - (A) includes a combined mass appraisal and county auditor system integrated with a county treasurer system; and**
 - (B) replaces the computer system referred to in subsection (a); and**
- (2) a schedule for implementation of the system referred to in subdivision (1) structured to result in the implementation of the system in all counties with respect to an assessment date:**
 - (A) determined by the department; and**
 - (B) specified in the rule.**

(f) The department shall appoint an advisory committee to assist the department in the formulation of the rules referred to in subsection (e). The department shall determine the number of members of the committee. The committee:

- (1) must include at least:**
 - (A) one (1) township assessor;**
 - (B) one (1) county assessor;**
 - (C) one (1) county auditor; and**
 - (D) one (1) county treasurer; and**
- (2) shall meet at times and locations determined by the department.**

(g) Each member of the committee appointed under subsection (f) who is not a state employee is not entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget

agency.

(h) Each member of the committee appointed under subsection (f) who is a state employee is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(i) The department shall report to the budget committee in writing the department's estimate of the cost of implementation of the system referred to in subsection (e).

SECTION 27. IC 6-1.5-5-5, AS AMENDED BY P.L.199-2005, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 5. After the hearing, the Indiana board shall give the petitioner, the township assessor, **if any**, the county assessor, the county auditor, the affected taxing units required to be notified under section 2(e) of this chapter, and the department of local government finance:

(1) notice, by mail, of its final determination, findings of fact, and conclusions of law; and

(2) notice of the procedures the petitioner or the department of local government finance must follow in order to obtain court review of the final determination of the Indiana board.

SECTION 28. IC 6-2.5-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 1. (a) A retail merchant may not make a retail transaction in Indiana, unless ~~he~~ **the retail merchant** has applied for a registered retail merchant's certificate.

(b) A retail merchant may obtain a registered retail merchant's certificate by filing an application with the department and paying a registration fee of twenty-five dollars (\$25) for each place of business listed on the application. The retail merchant shall also provide such security for payment of the tax as the department may require under IC 6-2.5-6-12.

(c) The retail merchant shall list on the application the location (including the township) of each place of business where ~~he~~ **the merchant** makes retail transactions. However, if the retail merchant does not have a fixed place of business, ~~he~~ **the merchant** shall list ~~his~~ **the merchant's** residence as ~~his~~ **the merchant's** place of business. In addition, a public utility may list only its principal Indiana office as its place of business for sales of public utility commodities or service, but the utility must also list on the application the places of business where it makes retail transactions other than sales of public utility commodities or service.

(d) Upon receiving a proper application, the correct fee, and the security for payment, if required, the department shall issue to the retail merchant a separate registered retail merchant's certificate for each place of business listed on the application. Each certificate shall bear a serial number and the location of the place of business for which it is issued.

(e) If a retail merchant intends to make retail transactions during a calendar year at a new Indiana place of business, ~~he~~ **the retail merchant** must file a supplemental application and pay the fee for that place of business.

(f) A retail merchant engaged in business in Indiana as defined in IC 6-2.5-3-1(c) who makes retail transactions that are only subject to the use tax must obtain a registered retail merchant's certificate before making those transactions. The retail merchant may obtain the certificate by following the same procedure as a retail merchant under subsections (b) and (c), except that the retail merchant must also include on the application:

(1) the names and addresses of the retail merchant's principal employees, agents, or representatives who engage in Indiana in the solicitation or negotiation of the retail transactions;

(2) the location of all of the retail merchant's places of business in Indiana, including offices and distribution houses; and

(3) any other information that the department requests.

(g) The department may permit an out-of-state retail merchant to collect the use tax. However, before the out-of-state retail merchant may collect the tax, ~~he~~ **the retail merchant** must obtain a registered retail merchant's certificate in the manner provided by this section. Upon receiving the certificate, the out-of-state retail merchant becomes subject to the same conditions and duties as an Indiana retail merchant and must then collect the use tax due on all sales of tangible

personal property that ~~he~~ **the retail merchant** knows is intended for use in Indiana.

(h) The department shall submit to the township assessor **or, in the case of a township located in a county having a consolidated city, the county assessor** before July 15 of each year:

(1) the name of each retail merchant that has newly obtained a registered retail merchant's certificate between March 2 of the preceding year and March 1 of the current year for a place of business located in the township **or county, as appropriate**; and

(2) the address of each place of business of the taxpayer in the township **or county, as appropriate**.

SECTION 29. IC 6-3.5-6-18.5, AS AMENDED BY P.L.234-2005, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 18.5. (a) This section applies to a county containing a consolidated city.

(b) Notwithstanding section 18(e) of this chapter, the distributive shares that each civil taxing unit in a county containing a consolidated city is entitled to receive during a month equals the following:

(1) For the calendar year beginning January 1, 1995, calculate the total amount of revenues that are to be distributed as distributive shares during that month multiplied by the following factor:

| | |
|----------------------------|--------|
| Center Township | .0251 |
| Decatur Township | .00217 |
| Franklin Township | .0023 |
| Lawrence Township | .01177 |
| Perry Township | .01130 |
| Pike Township | .01865 |
| Warren Township | .01359 |
| Washington Township | .01346 |
| Wayne Township | .01307 |
| Lawrence-City | .00858 |
| Beech Grove | .00845 |
| Southport | .00025 |
| Speedway | .00722 |
| Indianapolis/Marion County | .86409 |

(2) Notwithstanding subdivision (1), for the calendar year beginning January 1, 1995, the distributive shares for each civil taxing unit in a county containing a consolidated city shall be not less than the following:

| | |
|---------------------|-------------|
| Center Township | \$1,898,145 |
| Decatur Township | \$164,103 |
| Franklin Township | \$173,934 |
| Lawrence Township | \$890,086 |
| Perry Township | \$854,544 |
| Pike Township | \$1,410,375 |
| Warren Township | \$1,027,721 |
| Washington Township | \$1,017,890 |
| Wayne Township | \$988,397 |
| Lawrence-City | \$648,848 |
| Beech Grove | \$639,017 |
| Southport | \$18,906 |
| Speedway | \$546,000 |

(3) For each year after 1995, calculate the total amount of revenues that are to be distributed as distributive shares during that month as follows:

STEP ONE: Determine the total amount of revenues that were distributed as distributive shares during that month in calendar year 1995.

STEP TWO: Determine the total amount of revenue that the department has certified as distributive shares for that month under section 17 of this chapter for the calendar year.

STEP THREE: Subtract the STEP ONE result from the STEP TWO result.

STEP FOUR: If the STEP THREE result is less than or equal to zero (0), multiply the STEP TWO result by the ratio established under subdivision (1).

STEP FIVE: Determine the ratio of:

(A) the maximum permissible property tax levy under IC 6-1.1-18.5, IC 12-19-7, and IC 12-19-7.5 for each civil taxing unit for the calendar year in which the month falls, plus, for a county, an amount equal to the property taxes

imposed by the county in 1999 for the county's welfare fund and welfare administration fund; divided by (B) the sum of the maximum permissible property tax levies under IC 6-1.1-18.5, IC 12-19-7, and IC 12-19-7.5 for all civil taxing units of the county during the calendar year in which the month falls, and an amount equal to the property taxes imposed by the county in 1999 for the county's welfare fund and welfare administration fund.

STEP SIX: If the STEP THREE result is greater than zero (0), the STEP ONE amount shall be distributed by multiplying the STEP ONE amount by the ratio established under subdivision (1).

STEP SEVEN: For each taxing unit determine the STEP FIVE ratio multiplied by the STEP TWO amount.

STEP EIGHT: For each civil taxing unit determine the difference between the STEP SEVEN amount minus the product of the STEP ONE amount multiplied by the ratio established under subdivision (1). The STEP THREE excess shall be distributed as provided in STEP NINE only to the civil taxing units that have a STEP EIGHT difference greater than or equal to zero (0).

STEP NINE: For the civil taxing units qualifying for a distribution under STEP EIGHT, each civil taxing unit's share equals the STEP THREE excess multiplied by the ratio of:

(A) the maximum permissible property tax levy under IC 6-1.1-18.5, IC 12-19-7, and IC 12-19-7.5 for the qualifying civil taxing unit during the calendar year in which the month falls, plus, for a county, an amount equal to the property taxes imposed by the county in 1999 for the county's welfare fund and welfare administration fund; divided by

(B) the sum of the maximum permissible property tax levies under IC 6-1.1-18.5, IC 12-19-7, and IC 12-19-7.5 for all qualifying civil taxing units of the county during the calendar year in which the month falls, and an amount equal to the property taxes imposed by the county in 1999 for the county's welfare fund and welfare administration fund.

(c) Except with respect to Center Township, for each year after 2006, sixty-six percent (66%) of the revenues to be distributed as distributive shares during each month to the townships listed in this section are to be distributed as additional distributive shares to Indianapolis/Marion County and the township distributive shares are reduced by sixty-six percent (66%).

(d) If Lawrence, Beech Grove, Southport, or Speedway consolidates its fire department into the consolidated fire department under IC 36-3-1-6.3, commencing with the calendar year following that consolidation and for each year thereafter, the monthly distributive share of county option income taxes distributed to Lawrence, Beech Grove, Southport, or Speedway, as applicable, shall be reduced by a percentage set forth in the ordinances adopted under IC 36-3-1-6.3, and those revenues shall instead be distributed as additional distributive shares to Indianapolis/Marion County.

SECTION 30. IC 6-6-5.5-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 18. (a) A taxpayer who owns, holds, possesses, or controls a commercial vehicle that:

- (1) is subject to the commercial vehicle excise tax imposed under this chapter; and
- (2) would have been subject to assessment as personal property on March 1, 2000, under the law in effect before January 1, 2000;

shall file an information return on or before May 15, 2000, with the assessor of each township in which the taxpayer's commercial vehicles would have been subject to assessment and taxation under IC 6-1.1.

(b) The information return ~~shall be~~ is filed on a form prescribed by the department of local government finance and shall require the taxpayer to provide information regarding the value, nature, and location of each commercial vehicle which the taxpayer owns, holds,

possesses, or controls on March 1, 2000. If a commercial vehicle is used or operated in interstate commerce, the value reported on the information return ~~shall be~~ is determined under the procedure set forth in 50 IAC 4.2-10-3.

(c) The information return shall be furnished to the taxpayer by the appropriate ~~township~~ assessor **for each township** in the same manner and at the same time as the taxpayer's personal property tax return.

(d) In completing an information return under this section, a taxpayer shall make a complete disclosure of all information, required by the department of local government finance, that is related to the value, nature, or location of commercial vehicles that the taxpayer owns, holds, possesses or controls on March 1, 2000. The taxpayer shall certify to the truth of all information appearing in the information return and all data accompanying the information return.

(e) The ~~township~~ assessor **for each township** shall examine and verify the accuracy of each information return filed by a taxpayer. If appropriate, the assessor **for each township** shall compare an information return with the books of the taxpayer and with commercial vehicles owned, held, possessed, or controlled by the taxpayer.

SECTION 31. IC 6-6-5.5-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 19. (a) As used in this section, "assessed value" means an amount equal to the true tax value of commercial vehicles that:

- (1) are subject to the commercial vehicle excise tax under this chapter; and
- (2) would have been subject to assessment as personal property on March 1, 2000, under the law in effect before January 1, 2000.

(b) For calendar year 2001, a taxing unit's base revenue shall be determined as provided in subsection (f). For calendar years that begin after December 31, 2001, a taxing unit's base revenue shall be determined by multiplying the previous year's base revenue by one hundred five percent (105%).

(c) The amount of commercial vehicle excise tax distributed to the taxing units of Indiana from the commercial vehicle excise tax fund shall be determined in the manner provided in this section. On or before June 1, 2000, ~~each township the assessor of a county for each township~~ shall deliver to the county assessor a list that states by taxing district the total assessed value as shown on the information returns filed with the assessor on or before May 15, 2000.

(d) On or before July 1, 2000, each county assessor shall certify to the county auditor the assessed value of commercial vehicles in every taxing district.

(e) On or before August 1, 2000, the county auditor shall certify the following to the department of local government finance:

- (1) The total assessed value of commercial vehicles in the county.
- (2) The total assessed value of commercial vehicles in each taxing district of the county.

(f) The department of local government finance shall determine each taxing unit's base revenue by applying the current tax rate for each taxing district to the certified assessed value from each taxing district. The department of local government finance shall also determine the following:

- (1) The total amount of base revenue to be distributed from the commercial vehicle excise tax fund in 2001 to all taxing units in Indiana.
- (2) The total amount of base revenue to be distributed from the commercial vehicle excise tax fund in 2001 to all taxing units in each county.
- (3) Each county's total distribution percentage. A county's total distribution percentage shall be determined by dividing the total amount of base revenue to be distributed in 2001 to all taxing units in the county by the total base revenue to be distributed statewide.
- (4) Each taxing unit's distribution percentage. A taxing unit's distribution percentage shall be determined by dividing each taxing unit's base revenue by the total amount of base revenue to be distributed in 2001 to all taxing units in the county.

(g) The department of local government finance shall certify each taxing unit's base revenue and distribution percentage for calendar year 2001 to the auditor of state on or before September 1, 2000.

(h) The auditor of state shall keep permanent records of each taxing unit's base revenue and distribution percentage for calendar year 2001 for purposes of determining the amount of money each taxing unit in Indiana is entitled to receive in calendar years that begin after December 31, 2001.

SECTION 32. IC 6-8.1-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 1. (a) This subsection does not apply to the disclosure of information concerning a conviction on a tax evasion charge. Unless in accordance with a judicial order or as otherwise provided in this chapter, the department, its employees, former employees, counsel, agents, or any other person may not divulge the amount of tax paid by any taxpayer, terms of a settlement agreement executed between a taxpayer and the department, investigation records, investigation reports, or any other information disclosed by the reports filed under the provisions of the law relating to any of the listed taxes, including required information derived from a federal return, except to:

- (1) members and employees of the department;
- (2) the governor;
- (3) the attorney general or any other legal representative of the state in any action in respect to the amount of tax due under the provisions of the law relating to any of the listed taxes; or
- (4) any authorized officers of the United States;

when it is agreed that the information is to be confidential and to be used solely for official purposes.

(b) The information described in subsection (a) may be revealed upon the receipt of a certified request of any designated officer of the state tax department of any other state, district, territory, or possession of the United States when:

- (1) the state, district, territory, or possession permits the exchange of like information with the taxing officials of the state; and
- (2) it is agreed that the information is to be confidential and to be used solely for tax collection purposes.

(c) The information described in subsection (a) relating to a person on public welfare or a person who has made application for public welfare may be revealed to the director of the division of family and children, and to any county director of family and children located in Indiana, upon receipt of a written request from either director for the information. The information shall be treated as confidential by the directors. In addition, the information described in subsection (a) relating to a person who has been designated as an absent parent by the state Title IV-D agency shall be made available to the state Title IV-D agency upon request. The information shall be subject to the information safeguarding provisions of the state and federal Title IV-D programs.

(d) The name, address, Social Security number, and place of employment relating to any individual who is delinquent in paying educational loans owed to an institution of higher education may be revealed to that institution if it provides proof to the department that the individual is delinquent in paying for educational loans. This information shall be provided free of charge to approved institutions of higher learning (as defined by IC 20-12-21-3(2)). The department shall establish fees that all other institutions must pay to the department to obtain information under this subsection. However, these fees may not exceed the department's administrative costs in providing the information to the institution.

(e) The information described in subsection (a) relating to reports submitted under IC 6-6-1.1-502 concerning the number of gallons of gasoline sold by a distributor, and IC 6-6-2.5 concerning the number of gallons of special fuel sold by a supplier and the number of gallons of special fuel exported by a licensed exporter or imported by a licensed transporter may be released by the commissioner upon receipt of a written request for the information.

(f) The information described in subsection (a) may be revealed upon the receipt of a written request from the administrative head of a state agency of Indiana when:

- (1) the state agency shows an official need for the information; and
- (2) the administrative head of the state agency agrees that any information released will be kept confidential and will be used solely for official purposes.

(g) The name and address of retail merchants, including township,

as specified in IC 6-2.5-8-1(h) may be released solely for tax collection purposes to ~~township~~ assessors **for each township.**

(h) The department shall notify the appropriate innkeepers' tax board, bureau, or commission that a taxpayer is delinquent in remitting innkeepers' taxes under IC 6-9.

(i) All information relating to the delinquency or evasion of the motor vehicle excise tax may be disclosed to the bureau of motor vehicles in Indiana and may be disclosed to another state, if the information is disclosed for the purpose of the enforcement and collection of the taxes imposed by IC 6-6-5.

(j) All information relating to the delinquency or evasion of commercial vehicle excise taxes payable to the bureau of motor vehicles in Indiana may be disclosed to the bureau and may be disclosed to another state, if the information is disclosed for the purpose of the enforcement and collection of the taxes imposed by IC 6-6-5.5.

(k) All information relating to the delinquency or evasion of commercial vehicle excise taxes payable under the International Registration Plan may be disclosed to another state, if the information is disclosed for the purpose of the enforcement and collection of the taxes imposed by IC 6-6-5.5.

(l) This section does not apply to:

- (1) the beer excise tax (IC 7.1-4-2);
- (2) the liquor excise tax (IC 7.1-4-3);
- (3) the wine excise tax (IC 7.1-4-4);
- (4) the hard cider excise tax (IC 7.1-4-4.5);
- (5) the malt excise tax (IC 7.1-4-5);
- (6) the motor vehicle excise tax (IC 6-6-5);
- (7) the commercial vehicle excise tax (IC 6-6-5.5); and
- (8) the fees under IC 13-23.

(m) The name and business address of retail merchants within each county that sell tobacco products may be released to the division of mental health and addiction and the alcohol and tobacco commission solely for the purpose of the list prepared under ~~IC 6-2.5-6-14.~~ **IC 6-2.5-6-14.2.**

SECTION 33. IC 8-22-3-11.6, AS ADDED BY P.L.227-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11.6. (a) This section applies only to an airport authority established for a county having a consolidated city.

(b) ~~The legislative body of the consolidated city and the governing body of the airport authority may adopt substantially similar ordinances providing that After December 31, 2006, the fire department of the airport authority is consolidated into the fire department of the consolidated city created by IC 36-3-1-6.1, and that the fire department of the consolidated city shall provide fire protection services for the airport authority. If ordinances are adopted under this section, the consolidation shall take effect on the date agreed to by the legislative body of the consolidated city and the governing body of the airport authority in the ordinances.~~

(c) ~~The legislative body of the consolidated city and the governing body of the airport authority may adopt substantially similar ordinances an ordinance under IC 36-3-1-5.1 providing that the law enforcement services of the airport authority are consolidated into the consolidated law enforcement department of the consolidated city created by IC 36-3-1-5.1, and that the law enforcement department of the consolidated city shall provide law enforcement services for the airport authority. If ordinances are adopted under this section, the consolidation shall take effect on the date agreed to by the legislative body of the consolidated city and the governing body of the airport authority in the ordinances.~~

SECTION 34. IC 9-22-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 1. The following officers may act for their respective units of government under this chapter:

- (1) The sheriff, for a county.
- (2) The chief of police, for a city.
- (3) A town marshal, for a town.
- (4) A township trustee, for a township **in a county not having a consolidated city.**
- (5) A state police officer, for the state.

SECTION 35. IC 10-18-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 1. A township

trustee for a township in a county not having a consolidated city may receive as public property a monument or memorial built:

- (1) in the township;
- (2) in honor of the township's soldiers or marines; and
- (3) by the people with public donations;

if the people of the township want to give the monument or memorial to the township.

SECTION 36. IC 12-7-2-192.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 192.6. "Township", for purposes of IC 12-20 and IC 12-30-4, means a:**

- (1) civil township; or
- (2) township district (as defined in IC 36-6-4.1-5) for a county having a consolidated city.

SECTION 37. IC 14-21-1-13.5, AS AMENDED BY P.L.1-2005, SECTION 143, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: **Sec. 13.5. (a)** The division may conduct a program to survey and register in a registry of Indiana cemeteries and burial grounds that the division establishes and maintains all cemeteries and burial grounds in each county in Indiana. The division may conduct the program alone or by entering into an agreement with one (1) or more of the following entities:

- (1) The Indiana Historical Society established under IC 23-6-3.
- (2) A historical society (as defined in IC 36-10-13-3).
- (3) The Historic Landmarks Foundation of Indiana.
- (4) A professional archeologist or historian associated with a college or university.
- (5) A township trustee in a county not having a consolidated city.
- (6) Any other entity that the division selects.

(b) In conducting a program under subsection (a), the division may receive gifts and grants under terms, obligations, and liabilities that the director considers appropriate. The director shall use a gift or grant received under this subsection:

- (1) to carry out subsection (a); and
- (2) according to the terms of the gift or grant.

(c) At the request of the director, the auditor of state shall establish a trust fund for purposes of holding money received under subsection (b).

(d) The director shall administer a trust fund established by subsection (c). The expenses of administering the trust fund shall be paid from money in the trust fund.

(e) The treasurer of state shall invest the money in the trust fund established by subsection (c) that is not currently needed to meet the obligations of the trust fund in the same manner as other public trust funds may be invested. The treasurer of state shall deposit in the trust fund the interest that accrues from the investment of the trust fund.

(f) Money in the trust fund at the end of a state fiscal year does not revert to the state general fund.

(g) Nothing in this section may be construed to authorize violation of the confidentiality of information requirements of 16 U.S.C. 470(w) and 16 U.S.C. 470(h)(h).

(h) The division may record in each county recorder's office the location of each cemetery and burial ground located in that county.

SECTION 38. IC 15-3-4-0.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: **Sec. 0.5. (a) This section applies to a township in a county having a consolidated city.**

(b) After December 31, 2007, the duties of a township trustee under this chapter are transferred to the consolidated city.

SECTION 39. IC 15-3-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: **Sec. 1. (a)** As used in this chapter, "detritmental plant" includes Canada thistle (*cirsium arvense*), Johnson grass, sorghum alumun (*sorghum halrphense*), bur cucumber (*sicyos angulatus*), shattercane (*Sorghum bicolor* [L.] Moench spp. drummondii [Steud.] deWet), and, in residential areas only, noxious weeds and rank vegetation. The term does not include agricultural crops.

(b) As used in this chapter, "person" means an individual, an incorporated or unincorporated organization or association, a trustee or legal representative, the state, a political subdivision (as defined in IC 36-1-2-13), an agency of the state or a political subdivision, or a group of those persons acting in concert.

(c) As used in this chapter, "fund" means:

- (1) the township fund for a township in a county not having a consolidated city; or
- (2) the appropriate fund of the consolidated city for a county having a consolidated city.

(d) As used in this chapter, "township trustee" or "trustee" means:

- (1) a township trustee for a township in a county not having a consolidated city; or
- (2) the consolidated city for a township in a county having a consolidated city.

(e) A person owning or possessing real estate in Indiana shall destroy detritmental plants by cutting or mowing and, if necessary, by plowing, cultivating, or smothering, or by the use of chemicals in the bud stage of growth or earlier, to prevent those detritmental plants from maturing on any such real estate.

SECTION 40. IC 15-3-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: **Sec. 2. (a)** A township trustee who has reason to believe that detritmental plants may be on real estate may, after giving forty-eight (48) hours notice to the owner or person in possession of the property, enter the real estate to investigate.

(b) Except as provided in subsection (c), if the township trustee determines after investigating the property or by visual inspection without entering the property that a person has detritmental plants growing on real estate in ~~the a township that comprises all or a part of the township trustee's jurisdiction~~ that have not been destroyed as described in section 1 of this chapter, the ~~trustee of the township in which the real estate is located township trustee~~ shall notify, in writing, the owner or person in possession of the real estate to destroy the detritmental plants in a manner provided in section 1 of this chapter within five (5) days after the notice is given. If the detritmental plants are not destroyed as provided in section 1 of this chapter within five (5) days after notice is given, the trustee shall cause the detritmental plants to be destroyed in a manner seeming most practical to the trustee within three (3) additional days. The trustee may hire a person to destroy the detritmental plants. The trustee or the person employed to destroy the detritmental plants may enter upon the real estate where the detritmental plants are growing to destroy the detritmental plants, and are not civilly or criminally liable for damage to crops, livestock, or other property occurring while carrying out such work, except for gross negligence or willful or wanton destruction.

(c) If the county has established a county weed control board under IC 15-3-4.6 the township trustee may notify the county weed control board of the real estate containing detritmental plants, and the board shall either assume jurisdiction to control the detritmental plants or decline jurisdiction and refer the matter back to the township trustee. The county weed control board shall notify the township trustee of the board's decision.

(d) Notice required in subsection (a) or (b) may be given:

- (1) by mail, using certified mail; or
- (2) by personal service.

(e) Notice under subsection (d) is considered received by the owner or person in possession of the real estate:

- (1) if sent by mail, on the earlier of:
 - (A) the date of signature of receipt of the mailing; or
 - (B) three (3) business days after the date of mailing; or
- (2) if served personally, on the date of delivery.

SECTION 41. IC 15-3-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: **Sec. 3. (a)** The township trustee may pay for the chemicals, work, and labor performed in cutting or destroying detritmental plants under this chapter at a rate per hour to be fixed by the township trustee commensurate with local hourly wages.

(b) In all cases in which the infestation of the land with detritmental plants is so great and widespread as in the opinion of the trustee to render such cutting or eradication by hand methods impractical, the trustee shall engage the necessary power machinery or equipment and may pay for the work at a rate per hour fixed by the township trustee commensurate with the local hourly rate.

(c) When the work has been performed, the person doing the work shall file an itemized bill for the work ~~in the office of~~ with the trustee,

of the township; and when the bill has been approved the trustee shall pay the bill out of the township fund. The trustee of the township shall certify the cost or expense of the work, and the cost of the chemicals, adding to such bill twenty dollars (\$20) per day for each day that the trustee or the trustee's agent supervises the performance of the services required under this chapter as compensation for services, with a description of the real estate on which the labor was performed.

(d) The certified statement of costs prepared under subsection (c) shall be mailed using certificate of mailing to, or personally served on, the owner or person possessing the real estate. The certified statement shall be mailed to the auditor of state for any real estate owned by the state or to the fiscal officer of another municipality (as defined in IC 5-11-1-16) for real estate owned by the municipality. The statement shall request that the person pay the cost of performing the service under subsection (c) to the township trustee.

(e) If the owner or person in possession of the property does not pay the amount set forth in the statement within ten (10) days after receiving the notice under subsection (d), the township trustee shall file a copy of the certified statement in the office of the county auditor of the county where the real estate is located **or, if the township is in a county having a consolidated city, the office of the controller.**

(f) The auditor **or the city controller** shall place the amount claimed in the certified statement on the tax duplicate of the real estate. Except as provided in subsections (j) through (l), the amount claimed shall be collected as taxes are collected.

(g) After an amount described in subsection (f) is collected, the funds shall be deposited in the **trustee's township funds fund** for use at the discretion of the trustee.

(h) If there is no money available in **a the township fund** for that purpose, **the township board**, upon finding an emergency exists:

(1) the township legislative body shall act under IC 36-6-6-14(b) or IC 36-6-6-15; **or**

(2) a consolidated city shall act under IC 36-3-4;

to borrow a sum of money sufficient to meet the emergency.

(i) The trustee, when submitting estimates to the **township board legislative body** for action, shall include in the estimates an item sufficient to cover those expenditures.

(j) This subsection applies to real estate owned by the state. The auditor of state shall issue a warrant to pay the amount set forth in the certified statement of costs for real estate owned by the state and shall charge the appropriate fund for the amount.

(k) This subsection applies to real estate owned by a municipality (as defined in IC 5-11-1-16) other than the township **or a consolidated city**. The fiscal officer of the municipality shall make the necessary appropriation from the appropriate fund to pay the township the amount set forth in the certified statement of costs for real estate owned by the municipality.

(l) This subsection applies to real estate that is exempt from property taxation. The owner of the tax exempt real estate shall pay the amount set forth in the certified statement of costs for the tax exempt real estate. If the owner of the tax exempt real estate fails to pay the amount required by this chapter, the owner is ineligible for the property tax exemption and the department of local government finance shall deny the property tax exemption for the real estate.

SECTION 42. IC 15-3-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 4. Except as provided in section 3 of this chapter, the county auditor **or, if a township is in a county having a consolidated city, the controller**, upon receiving and filing such trustee's certificate as prescribed in this chapter, shall immediately place said amounts on the tax duplicate of the county and such amounts shall be due at the next tax paying time, and shall be collected for the proper township, **or townships, or consolidated city**, the same as other state, county, or township taxes are collected, including penalties, forfeitures, and sales, and when so collected shall be paid to the proper trustee and placed in the **township fund**.

SECTION 43. IC 15-3-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 5. (a) A person who:

- (1) knowingly allows detrimental plants to grow and mature on land owned or possessed by the person;
- (2) knowing of the existence of detrimental plants on land

owned or possessed by the person, fails to cut them down or eradicate them by chemicals each year, as prescribed in this chapter;

(3) having charge of or control over any highway, knowingly allows detrimental plants to grow or mature on the right-of-way of the highway, or, knowing of the existence of the detrimental plants fails to cut them down or eradicate them by chemicals, as prescribed in this chapter;

(4) having charge of or control over the right-of-way of a railroad or interurban company, knowingly allows detrimental plants to grow and mature thereon, or knowing of the existence of the detrimental plants, fails to cut them down or eradicate them by chemicals, as prescribed in this chapter; or

(5) knowingly sells Canada thistle (*cirsium arvense*) seed;

commits a Class C infraction. Each day this section is violated constitutes a separate infraction.

(b) All judgments collected under this section shall be paid to the trustee and placed in the **trustee's township funds fund** for use at the discretion of the trustee **or the consolidated city**.

SECTION 44. IC 15-3-4-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 7. When the annual budget is prepared, a sufficient amount shall be appropriated to enable the township **officials trustee** to comply with this chapter.

SECTION 45. IC 15-3-4-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 8. (a) The Purdue University cooperative extension service shall provide technical assistance to township trustees for the control of detrimental plants.

(b) All law enforcement agencies having jurisdiction in a township **or a consolidated city** shall assist the township trustee in carrying out the duties imposed on the trustee under this chapter.

SECTION 46. IC 15-3-4.6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 3. The weed control board consists of the following members to be appointed by the authorizing body:

(1) One (1) **member appointed as follows:**

(A) In a county not having a consolidated city, a township trustee of a township in the county.

(B) In a county having a consolidated city, the director of the department of the consolidated city that is responsible for the destruction of detrimental plants described in this chapter or the director's designee.

(2) One (1) soil and water conservation district supervisor.

(3) A representative from the agricultural community of the county.

(4) A representative from the county highway department or an appointee of the county commissioners. **and**

(5) A cooperative extension service agent from the county to serve in non-voting advisory capacity.

Each board member shall be appointed for a term of four (4) years. All vacancies in the membership of the board shall be filled for the unexpired term in the same manner as initial appointments. The board shall elect a chairman, and a secretary. The members of the board are not entitled to receive any compensation, but are entitled to such traveling and other expenses as may be necessary in the discharge of their duties. The board may appoint an executive director and employ necessary technical, professional, and other assistants and it shall fix the qualifications, duties, and salaries of these employees subject to the permission of the county council. The county highway supervisor and the soil and water conservation district supervisor or employee serving the county shall serve as inspectors for the board. They shall make periodic inspections and report their findings to the board and the executive director, if any.

SECTION 47. IC 15-3-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 1. The Indiana department of transportation, railroads, drainage districts, township boards, **except township boards of townships in a county having a consolidated city**, public utilities, and other public and quasi-public corporations shall, between July 1 and September 15, do anything possible to restrict the growth and seed production of all Johnson grass growing on lands for which they are responsible in a municipality or township of this state.

SECTION 48. IC 15-5-9-0.5 IS ADDED TO THE INDIANA

CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: **Sec. 0.5. As used in this chapter, "assessor" means:**

(1) for a township located in a county not having a consolidated city:

(A) the township assessor elected under IC 36-6-5-1; or
(B) the township trustee who is required by law to act as the assessor for the township the trustee serves; or

(2) for a township located in a county having a consolidated city, the controller of the consolidated city or the controller's designee.

SECTION 49. IC 15-5-9-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 1. (a) The ~~township~~ assessor shall make a diligent census as to the number of dogs owned, harbored, or kept by any person. A person owning or harboring a dog shall pay immediately to the ~~township~~ assessor a tax for each dog owned, harbored, or kept on the same premises, whether owned by that person or some other person, as follows:

(1) Except as provided in subsection (d), for each neutered dog, two dollars (\$2).

(2) For each nonneutered dog, four dollars (\$4).

(3) For each additional dog, six dollars (\$6).

No dog under six (6) months of age is subject to any tax under this chapter. Whoever becomes the owner or harbinger of a dog after the dog census by the ~~township~~ assessor or any owner or harbinger of a dog for which for any reason the assessor failed to collect the tax, shall, within thirty (30) days after becoming the owner or harbinger of a dog, apply to the assessor, or the assessor's designee, pay the required fee, and procure a tag for the dog.

(b) Dogs kept in kennels for breeding, boarding, or training purposes or for sale shall not be assessed an individual license fee, but the owner or keeper shall pay a kennel license fee according to the following schedule:

(1) For a major kennel, consisting of fifteen (15) or more dogs, a fee of thirty dollars (\$30).

(2) For a minor kennel, consisting of less than fifteen (15) dogs, a fee of twenty dollars (\$20).

For each individual dog tag or kennel license issued under this chapter, the ~~township~~ assessor ~~(or trustee who collects the fee)~~ shall retain from the fee described in this section, an administrative fee of fifty cents (\$0.50). Administrative fees collected by ~~the~~ **an** assessor **other than a township trustee** shall be deposited in the county general fund, and administrative fees collected by ~~the~~ **a township trustee** shall be deposited in the township general fund.

(c) Upon the payment of the license fee required by subsection (b), the ~~township~~ assessor shall deliver to the owner or keeper of the kennel a proper license together with a metallic tag for each dog in such kennel. The license shall be dated and numbered and shall bear the name of the county issuing it and the name and address of the owner of the kennel licensed, and a description of the breed, number, sex, and age of the dogs kept in such kennel. Any person becoming the owner of a dog kennel shall, within thirty (30) days after becoming the owner, apply to the ~~township~~ assessor, township trustee, or assessor's designee and, upon payment of the required fee, procure a license and a metallic tag for all dogs kept in the kennel.

(d) A county council may increase the tax on neutered dogs imposed under subsection (a) from two dollars (\$2) to three dollars (\$3).

(e) ~~A township~~ **An assessor (or a township trustee who has the duties of a township assessor)** may designate one (1) or more licensed veterinarians or humane societies in the assessor's township **or county, as the case may be,** to collect the dog taxes and kennel license fees and issue the licenses under this chapter. A designee may retain seventy-five cents (\$0.75) as a fee for that service and remit the balance of the money collected to the ~~township trustee assessor who~~ **designated the designee** by the tenth day of each month. As used in this subsection, "humane society" includes an animal shelter, animal control center, or other animal impounding facility that has as its purpose the humane treatment of animals.

SECTION 50. IC 15-5-9-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 2. (a) The ~~township~~ assessor shall give to each person a receipt for the money paid the assessor, which shall be designated for dog tax. The receipt

shall show the person's name who owns, harbors, or keeps the dog, the amount paid, and the number, description, and kind of dogs paid for, whether male or female, and the number of each. The receipt relieves the person owning, keeping, or harboring dogs for the current year, extending one (1) year from its date. The assessor shall keep a record of persons owning dogs subject to taxation and a record of the dogs paid for. The assessor shall keep a stub record or copy of the receipts given for money paid as dog tax. The stub record shall show the amount paid, the number of dogs, both male and female, paid for, and the person's name owning the dogs paid for. At the time when the receipt is issued to the person, the assessor shall give to the person a tag, which shall be attached to the collar worn by the dog.

(b) Before July 1 each year, the ~~township~~ assessor, **except an assessor in a county having a consolidated city,** shall turn over to the township trustee all the records kept by the assessor relating to the collecting and payment of dog taxes and kennel license fees, and a copy of all receipts given by the assessor to persons having paid dog taxes and kennel license fees, and all money received by the assessor as dog taxes, and all tags left in the assessor's possession. The assessor shall assess against each person who failed to pay to the assessor the amount of any license fee owed by the person, and the amount of the license fees shall be placed upon the tax duplicate by the county auditor and collected as taxes are collected.

(c) From July 1 each year until March 1 of the next year, the ~~township trustee assessor~~ shall receive any license fees subject to be paid under this chapter and issue any licenses under this chapter that may be received or issued by the ~~township~~ assessor under this chapter.

SECTION 51. IC 15-5-9-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 3. **This section does not apply to a township in a county having a consolidated city or to a consolidated city.** The ~~township~~ assessor shall, before July 1 each year, report the amount collected as dog tax and kennel license fees to the county auditor. The dog taxes and kennel license fees collected by ~~the~~ **a township** assessor shall be turned over by the ~~township~~ assessor to the township trustee of the ~~township~~ assessor's township. The county auditor shall make a record of the same, and charge the amount stated in the report against the township trustee as receipts from the county dog fund.

SECTION 52. IC 15-5-9-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 4. (a) Each ~~township~~ assessor shall perform the duties imposed by this chapter. If a dog owner has failed to turn in a dog for taxation purposes, the assessor shall notify the owner that the assessor is listing the unpaid taxes within a period of ten (10) days, at which time the person will be assessed double the amount of taxes provided by this chapter unless the person owning the dog appears voluntarily within the ten (10) days and:

(1) proves to the satisfaction of the assessor that the person owned no such dog at the time the census was made; or

(2) makes an affidavit to be kept on file by the assessor to the effect that the failure to report a dog for taxation was not intentional and was not purposely omitted for the purpose of avoiding payment of taxes.

(b) Each assessor shall keep a complete list of all dogs subject to the tax under this chapter together with the names of their owners on record in the assessor's office at all times and available to the public. If any person shall acquire, own, harbor, or keep any dog after the assessor has completed the census, the person shall report the dog to and pay to the assessor the amount of dog tax as provided in this chapter and receive a receipt and tag for the payment. The receipt and tag exempts the person from further payment of dog tax on dogs described in the receipt for one (1) year from the date of the receipt.

SECTION 53. IC 15-5-9-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 5. ~~A township~~ **An assessor or assessor's designee or township trustee** who:

(1) fails to perform the duties imposed by this chapter; or

(2) fails to make a complete report within the time specified in this chapter;

commits a Class C infraction.

SECTION 54. IC 15-5-9-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 6. Every person liable to taxation in any township and residing in the township when

listed for taxation shall make and subscribe to an oath to the township assessor in which the person states the number of dogs neutered or unneutered over the age of six (6) months and owned or harbored by the person.

SECTION 55. IC 15-5-9-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 8. (a) All money derived by the taxing of dogs under this chapter shall constitute a fund known as the township dog fund **or, in the case of a township located in a county having a consolidated city, the county dog fund** that the township trustee **or, in the case of a township located in a county having a consolidated city, the controller of the consolidated city**, shall use in the manner provided in this chapter for the payment of the following:

(1) Damages, less insurance proceeds, sustained by owners of the following stock, fowl, or game killed, maimed, or damaged by dogs:

- (A) Sheep.
- (B) Cattle.
- (C) Horses.
- (D) Swine.
- (E) Goats.
- (F) Mules.
- (G) Chickens.
- (H) Geese.
- (I) Turkeys.
- (J) Ducks.
- (K) Guineas.
- (L) Tame rabbits.

(M) Game birds and game animals held in captivity under authority of a game breeder's license issued by the department of natural resources.

- (N) Bison.
- (O) Farm raised cervidae.
- (P) Ratitae.

(2) The expense of taking the Pasteur treatment for hydrophobia incurred by any person bitten by or exposed to a dog known to have hydrophobia. ~~within any township of Indiana.~~

(b) Any person requiring the treatment described in subsection (a)(2) may select the person's own physician.

(c) No damages shall be assessed or paid under this chapter on sheep except where individual damage exists or is shown.

(d) This subsection applies to a county whose legislative body has acted under this subsection. A county legislative body may designate by ordinance one (1) humane society located in that county to receive fifty cents (\$0.50) from each dog tax payment collected under this chapter.

(e) A humane society designated under subsection (d) shall use the funds disbursed to the society to maintain an animal shelter.

(f) If a county does not designate a humane society to receive payments under subsection (d), those amounts remain in the township dog fund **or, in the case of a county having a consolidated city, the county dog fund.**

SECTION 56. IC 15-5-9-9.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 9.1. (a) ~~In order~~ To qualify for payment for damages by a township trustee **or, in the case of a township located in a county having a consolidated city, the controller of the consolidated city** under this chapter, the owner of stock, fowl, or game listed in section 8(a)(1) of this chapter killed, maimed, or damaged by dogs shall do the following:

(1) Not more than seventy-two (72) hours after the time of the loss, notify one (1) of the following having jurisdiction in the location where the loss occurred:

- (A) A law enforcement officer.
- (B) An officer of a county or municipal animal control center, shelter, or similar impounding facility.

(2) Within twenty (20) days from the time of the loss, report the loss to the trustee ~~of his township~~ **of the owner's township or, in a township located in a county having a consolidated city, to the controller of the consolidated city** as follows:

- (A) Under oath, the owner shall state:
 - (i) the number, age, and value of the stock, fowl, or game; and
 - (ii) the damages, less any insurance proceeds, sustained.

(B) In an affidavit, the owner must be joined by two (2) disinterested and reputable freeholders residing in the township in which the stock, fowl, or game were killed, maimed, or damaged. The affidavit must state that the freeholders are:

- (i) disinterested; and
- (ii) not related by blood or marriage to the claimant.

(C) No appraisal may exceed the actual cash value of the stock, fowl, or game. As it applies to ratitae, cash value is no more than the slaughter value.

(D) The owner shall provide verification of the loss by an officer under subdivision (1).

(E) No loss shall be paid for property owned by a claimant on the last property tax assessment date if the property was not reported by the owner for assessment purposes at that time.

(b) An officer who receives notice under subsection (a)(1) shall visit the scene of the loss, verify the loss in writing, and mark the animal so that the animal can support only one (1) claim under this chapter.

SECTION 57. IC 15-5-9-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 10. (a) ~~The trustees township trustee or the controller of the consolidated city~~ shall register and pay damages for all losses in the order in which the losses are reported.

(b) A person may not receive payment from the trustee **or the controller of the consolidated city** for stock, fowl, or game listed in section 8(a)(1) of this chapter:

- (1) that are killed, maimed, or damaged by any dog or dogs owned or harbored by that person;
- (2) for which the person received from another person an amount equal to the actual damages; or
- (3) for which the owner has not complied with section 9.1 of this chapter.

(c) When rabies shall develop in any stock, fowl, or game listed in section 8(a)(1) of this chapter, however contracted, and when the existence of such disease shall be proven by:

- (1) laboratory diagnosis, made in the laboratory of the state department of health, or some other laboratory maintained by state, county, or municipal funds; or
- (2) affidavit of an attending legally qualified graduate veterinarian;

the owner of such animal with rabies shall be entitled to recover in the same amount and manner as provided in sections 8 and 9.1 of this chapter.

(d) Whenever any dog not accompanied by the dog's owner or owner's agent is suspected of having rabies and found roaming at large, and the dog dies or is destroyed on said account, the **township trustee or controller of the consolidated city** shall do the following:

- (1) Remove or have removed the head of the dog.
- (2) Pay from the township dog fund **or, in the case of a township located in a county having a consolidated city, the county dog fund**, the following:

- (A) A reasonable fee for the removal of the dog's head.
- (B) All charges for transporting the head to a laboratory maintained by state, county, or municipal funds. If no money is available in the **appropriate** dog fund, ~~of the township~~, then such necessary fees shall be paid out of the township **general fund or, in the case of a township located in a county having a consolidated city, the county general fund**, without appropriations having been made.

(e) On the first Monday of March of each year, the township shall transfer the following to the county treasurer:

- (1) Any funds in a township dog fund designated for a humane society under section 8 of this chapter.
- (2) Any amount in a township dog fund exceeding three hundred dollars (\$300) over and above orders drawn on the fund.

(f) The funds transferred to the county treasurer under subsection (e) shall be deposited in the county dog fund. On the second Monday in March of each year, the money in the county dog fund shall be distributed as follows:

- (1) **Except for a township located in a county having a**

consolidated city, among the townships of the county in which the orders drawn against the dog fund exceed the money on hand.

(2) To a humane society designated under section 8 of this chapter.

(g) If the funds in the county dog fund, after any distribution to a designated humane society, are insufficient to pay for all stock, fowl, or game listed in section 8(a)(1) of this chapter that are killed, maimed, or damaged by dogs of ~~all the townships~~ in the county, the distribution shall be made, **except in a township located in a county having a consolidated city**, in the ratio of the orders drawn against the dog fund of the townships and unpaid and unprovided for. The ratio shall be obtained from the report of the trustees of the townships made to the auditor of the county.

(h) The report under subsection (g) shall be made by each township trustee of the county upon the first Monday of March of each year and must show the following:

(1) All receipts into the dog fund of the township.

(2) All orders drawn against the township fund in the order in which the orders were drawn.

(i) If the funds in the dog fund of any township and the share of the county dog fund distributed to such township during any year **or, in the case of a township located in a county having a consolidated city, the county dog fund**, are insufficient to pay for all stock, fowl, and game listed in section 8(a)(1) of this chapter that are killed, maimed, or damaged by dogs in such township **or county, as the case may be**, during such year, any such losses registered and any orders drawn which are unpaid and unprovided for shall be paid out of the state dog account.

(j) If upon the first Monday in May of any year there is a surplus left of the county dog fund after provisions have been made for the payment of all stock, fowl, and game listed in section 8(a)(1) of this chapter that are killed, maimed, or damaged by dogs of all the townships of the county and the distribution to any designated humane society, the surplus shall be:

(1) paid to the auditor of state; and

(2) placed in a separate account of the general fund of the state treasury known as the state dog account.

SECTION 58. IC 15-5-9-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 11. On or before the first day of May of each year, the trustee of each township shall make a report in writing, to the county auditor, of the amount of all claims in ~~his the trustee's~~ township for livestock, fowls, or game which have been destroyed or damaged by dogs, and which claims have been filed before March 9, 1937, or which may be filed thereafter but have not been paid for lack of funds. On or before the second Monday in May of each year, the auditor of each county, **or in a county having a consolidated city, the controller of the consolidated city**, shall make a report, in writing, to the auditor of state, in such form as the auditor of state shall prescribe, of the amount of all such claims in ~~his the~~ county which have been filed and which have not been paid for lack of funds, and on or before the second Monday in July, the auditor of state shall issue ~~his the~~ **auditor's** warrant, payable to the auditor of each such county **or, in a county having a consolidated city, the controller of the consolidated city**, for the amount of the unpaid claims. The warrant shall be drawn on the state dog account. Upon the receipt of the money, the auditor of the county **or, in a county having a consolidated city, the controller of the consolidated city**, shall distribute the funds to the respective townships of ~~his the~~ county entitled thereto **or, in the case of a county having a consolidated city, to the appropriate fund of the consolidated city**, and the trustee of the township **or controller of a consolidated city** shall pay all unpaid claims of ~~his the~~ township **or county** in the order in which the claims were filed. If in any year there is not sufficient money in the state dog account to pay all of the claims, the auditor of state shall make such distribution, as near as practicable, in proportion to the aggregate value of livestock, fowls, or game for the destruction of which or the damage to which claims have been filed in the respective counties, and the county auditor, **except in a county having a consolidated city**, shall distribute the money so received to the several townships in the same proportion. All money in excess of fifty thousand dollars (\$50,000) remaining in the state dog account, after

such annual distribution shall have been made as hereinbefore provided, shall be distributed by the auditor of state in the manner following:

~~(a)~~ **(1)** One-half (1/2) of such excess or one hundred thousand dollars (\$100,000) of such excess, whichever sum is the lesser, shall be distributed to Purdue University for the School of Veterinary Science and Medicine to be used solely for canine disease research.

~~(b)~~ **(2)** The balance remaining of such excess, after the distribution to Purdue University is made as hereinbefore provided, shall be distributed to the general fund of each county in direct proportion to the total amount of money paid into the dog account on the second Monday in May by the county prior to the distribution.

Of the funds returned to the respective counties the county may, with the approval of the county commissioners and the county council, construct dog pounds within said counties.

SECTION 59. IC 15-5-9-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 12. (a) At the time when the dog kennel license fee is paid to the ~~township~~ assessor, the assessor, at the time when the assessor issues a receipt, shall likewise furnish to the person a metal tag. The metal tag furnished shall be attached securely to the collar of the dog for which the license fee has been paid and the collar, with the tag attached, shall be worn continuously by the dog.

(b) All license tags shall be of uniform design or color for any one (1) year, but the same color or shape shall not be used for any two (2) consecutive years. All tags shall be designed by the auditor of state, shall be paid for out of the state dog account, and shall be manufactured at the state prison in the same manner as motor vehicle registration plates. Each tag shall have a distinct number and the number of the tag shall appear on the receipt issued to the owner of the dog.

(c) If any dog tag is lost, it shall be replaced without cost by the assessor upon application by the owner of the dog and upon the production of the receipt and a sworn statement of the facts regarding the loss of the tag. No license tag is transferable to another dog.

SECTION 60. IC 23-14-33-7.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: **Sec. 7.5. "Cemetery fund" means the:**

(1) township fund for a township in a county not having a consolidated city; or

(2) cemetery fund of the consolidated city for a township in a county having a consolidated city.

SECTION 61. IC 23-14-33-32.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: **Sec. 32.5. "Township" means:**

(1) a township in a county not having a consolidated city; or

(2) the consolidated city for a township in a county having a consolidated city.

SECTION 62. IC 23-14-33-32.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: **Sec. 32.6. "Township trustee" or "trustee" means:**

(1) a township trustee for a township in a county not having a consolidated city; or

(2) the consolidated city for a township in a county having a consolidated city.

SECTION 63. IC 23-14-64-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 4. All expenses incurred by the trustee in administering this chapter shall be paid out of the ~~township~~ **cemetery** fund of the township.

SECTION 64. IC 23-14-68-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 4. (a) The township shall appropriate enough money to provide for the care, repair, and maintenance of each cemetery described in section 1(a) of this chapter that is located within the township. Funds shall be appropriated under this subsection in the same manner as other ~~township~~ appropriations.

(b) The township may levy a ~~township~~ cemetery tax to create a fund for maintenance of cemeteries under this chapter. If a fund has not been provided for maintenance of cemeteries under this chapter,

part of the township fund **or other funds of the township** may be used.

SECTION 65. IC 23-14-69-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 5. (a) If:

- (1) no land suitable for a public cemetery is donated to a township; and
- (2) if the township legislative body adopts a resolution approving the purchase;

the township ~~executive~~ may purchase land for the purpose of establishing a public cemetery.

(b) When land is purchased and conveyed to the township under subsection (a), the land must be set apart, kept in repair, and used as provided in section 6 of this chapter.

SECTION 66. IC 23-14-69-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 9. All expenses incurred by the township trustee for administering this chapter shall be paid out of the ~~township cemetery~~ fund of the township.

SECTION 67. IC 32-21-2-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 13. (a) If the auditor of the county or the ~~township~~ assessor **for a township** under IC 6-1.1-5-9 and IC 6-1.1-5-9.1 determines it necessary, an instrument transferring fee simple title to less than the whole of a tract that will result in the division of the tract into at least two (2) parcels for property tax purposes may not be recorded unless the auditor or township assessor is furnished a drawing or other reliable evidence of the following:

- (1) The number of acres in each new tax parcel being created.
- (2) The existence or absence of improvements on each new tax parcel being created.
- (3) The location within the original tract of each new tax parcel being created.

(b) Any instrument that is accepted for recording and placed of record that bears the endorsement required by IC 36-2-11-14 is presumed to comply with this section.

SECTION 68. IC 32-26-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 2. (a) The trustee of each township, the county highway superintendent, the Indiana department of transportation, or other officer in control of the maintenance of a highway shall between January 1 and April 1 of each year, examine all hedges, live fences, natural growths along highways, and other obstructions described in section 1 of this chapter in their respective jurisdictions. **However, in a county having a consolidated city, the duties and obligations of a township trustee under this chapter are the responsibility of the consolidated city.** If there are hedges, live fences, other growths, or obstructions along the highways that have not been cut, trimmed down, and maintained in accordance with this chapter, the owner shall be given written notice to cut or trim the hedge or live fence and to burn the brush trimmed from the hedge or live fence and remove any other obstructions or growths.

(b) The notice required under subsection (a) must be served by reading the notice to the owner or by leaving a copy of the notice at the owner's usual place of residence.

(c) If the owner is not a resident of the township, county, or state where the hedge, live fence, or other obstructions or growth is located, the notice shall be served upon the owner's agent or tenant residing in the township, **county, or state.** If an agent or a tenant of the owner does not reside in the township, the notice shall be served by mailing a copy of the notice to the owner, directed to the owner's last known post office address.

(d) If the owner, agents, or tenants do not proceed to cut and trim the fences and burn the brush trimmed from the fences or remove any obstructions or growths within ten (10) days after notice is served, the township trustee, **consolidated city**, county highway superintendent, or Indiana department of transportation shall immediately:

- (1) cause the fences to be cut and trimmed or obstructions or growths removed in accordance with this chapter; and
- (2) burn the brush trimmed from the fences.

All expenses incurred under this subsection shall be assessed against and become a lien upon the land in the same manner as road taxes.

(e) The township trustee, **consolidated city**, county highway superintendent, or Indiana department of transportation having charge of the work performed under subsection (d) shall prepare an itemized

statement of the total cost of the work of removing the obstructions or growths and shall sign and certify the statement to the county auditor of the county in which the land is located. The county auditor shall place the statement on the tax duplicates. The county treasurer shall collect the costs entered on the duplicates at the same time and in the same manner as road taxes are collected. The treasurer may not issue a receipt for road taxes unless the costs entered on the duplicates are paid in full at the same time the road taxes are paid. If the costs are not paid when due, the costs shall become delinquent, bear the same interest, be subject to the same penalties, and be collected at the same time and in the same manner as other unpaid and delinquent taxes.

SECTION 69. IC 32-26-9-0.6 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: **Sec. 0.6. As used in this chapter, "township" means:**

- (1) a township in a county not having a consolidated city; or
- (2) the consolidated city for a township in a county having a consolidated city.

SECTION 70. IC 32-26-9-0.7 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: **Sec. 0.7. As used in this chapter, "township trustee" or "trustee" means:**

- (1) a township trustee for a township in a county not having a consolidated city; or
- (2) the consolidated city for a township in a county having a consolidated city.

SECTION 71. IC 32-26-9-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 3. (a) A partition fence shall be built, rebuilt, and kept in repair at the cost of the property owners whose properties are enclosed or separated by the fences proportionately according to the number of rods or proportion of the fence the property owner owns along the line of the fence, whether the property owner's title is a fee simple or a life estate.

(b) If a property owner fails or refuses to compensate for building, rebuilding, or repairing the property owner's portion of a partition fence, another property owner who is interested in the fence, after having built, rebuilt, or repaired the property owner's portion of the fence, shall give to the defaulting property owner or the defaulting property owner's agent or tenant twenty (20) days notice to build, rebuild, or repair the defaulting property owner's portion of the fence. If the defaulting property owner or the defaulting property owner's agent or tenant fails to build, rebuild, or repair the fence within twenty (20) days, the complaining property owner shall notify the township trustee of the township in which the properties are located of the default.

(c) This subsection applies if the fence sought to be established, rebuilt, or repaired is on a township line. Unless disqualified under subsection (h), the complaining property owner shall notify the trustee of the township in which the property of the complaining property owner is located of the default under subsection (b), and the trustee has jurisdiction in the matter.

(d) The township trustee who receives a complaint under this section shall:

- (1) estimate the costs for building, rebuilding, or repairing the partition fence; and
- (2) within a reasonable time after receiving the complaint, make out a statement and notify the defaulting property owner of the probable cost of building, rebuilding, or repairing the fence.

If twenty (20) days after receiving a notice under this subsection the defaulting property owner has not built, rebuilt, or repaired the fence, the trustee shall build or repair the fence. The trustee may use only the materials for the fences that are most commonly used by the farmers of the community.

(e) If the trustee ~~of a township~~ is disqualified to act under subsection (h), the trustee of an adjoining township who resides nearest to where the fence is located shall act on the complaint upon receiving a notice by a property owner who is interested in the fence.

(f) A lawful partition fence is any one (1) of the following that is sufficiently tight and strong to hold cattle, hogs, horses, mules, and sheep:

- (1) A straight board and wire fence, a straight wire fence, a straight board fence, or a picket fence four (4) feet high.

(2) A straight rail fence four and one-half (4 1/2) feet high.

(3) A worm rail fence five (5) feet high.

(g) This subsection applies if a ditch or creek crosses the division line between two (2) property owners, causing additional expense in the maintenance of the part over the stream. If the property owners cannot agree upon the proportionate share of each property owner, the township trustee shall appoint three (3) disinterested citizens who shall apportion the partition fence to be built by each property owner.

(h) If a township trustee is:

(1) related to any of the interested property owners; or

(2) an interested property owner;

~~the trustee of any other township who resides nearest to where the fence is located shall~~ **township shall appoint another official to act under this chapter.**

(i) This subsection applies if a ditch or creek forms, covers, or marks the dividing line or a part of the dividing line between the properties of separate and different property owners so that partition fences required under this chapter cannot be built and maintained on the dividing line. The partition fences shall be built and maintained under this chapter as near to the boundary line as is practical, and each property owner shall build a separate partition fence on the property owner's property and maintain the fence at the property owner's cost.

(j) This subsection applies where a partition fence required under this chapter crosses a ditch or creek and it is impracticable to construct or maintain that portion of the fence that crosses the ditch or creek as a stationary fence. Instead of the portion of the fence that would cross the ditch or creek, there shall be constructed, as a part of the partition fence, floodgates or other similar structures that are sufficiently high, tight, and strong to turn hogs, sheep, cattle, mules, and horses or other domestic animals. The floodgates or other similar structures shall be constructed to swing up in times of high water and to connect continuously with the partition fences.

(k) This subsection applies if the building and maintenance of the floodgates or other similar structure required under subsection (j) causes additional expenses and the property owners cannot agree upon the character of floodgates or other similar structure, or upon the proportionate share of the cost to be borne by each property owner. The township trustee, upon notice in writing from either property owner of a disagreement and the nature of the disagreement, shall appoint three (3) disinterested citizens of the township who shall determine the kind of structure and apportion the cost of the floodgate or other structure between the property owners, taking into consideration the parts of the fence being maintained by each property owner.

(l) The determination of a majority of the arbitrators of any matter or matters submitted to them under this section is final and binding on each property owner. The compensation of the arbitrators is two dollars (\$2) each, which shall be paid by the property owners in the proportion each property owner is ordered to bear the expense of a gate or structure.

(m) This subsection applies if either or both of the property owners fail to construct or compensate for constructing the structure determined upon by the arbitrators in the proportion determined within thirty (30) days after the determination. The township trustee shall proceed at once to construct the gate or structure and collect the cost of the gate or structure, including the compensation of the arbitrators, from the defaulting property owner in the same manner as is provided for ordinary partition fences. The floodgate or other structure shall be repaired, rebuilt, or replaced according to the determination of the arbitrators.

SECTION 72. IC 32-28-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 1. (a) A contractor, a subcontractor, a mechanic, a lessor leasing construction and other equipment and tools, whether or not an operator is also provided by the lessor, a journeyman, a laborer, or any other person performing labor or furnishing materials or machinery, including the leasing of equipment or tools, for:

(1) the erection, alteration, repair, or removal of:

(A) a house, mill, manufactory, or other building; or

(B) a bridge, reservoir, system of waterworks, or other structure;

(2) the construction, alteration, repair, or removal of a walk or

sidewalk located on the land or bordering the land, a stile, a well, a drain, a drainage ditch, a sewer, or a cistern; or

(3) any other earth moving operation;

may have a lien as set forth in this section.

(b) A person described in subsection (a) may have a lien separately or jointly upon the:

(1) house, mill, manufactory, or other building, bridge, reservoir, system of waterworks, or other structure, sidewalk, walk, stile, well, drain, drainage ditch, sewer, cistern, or earth:

(A) that the person erected, altered, repaired, moved, or removed; or

(B) for which the person furnished materials or machinery of any description; and

(2) on the interest of the owner of the lot or parcel of land:

(A) on which the structure or improvement stands; or

(B) with which the structure or improvement is connected;

to the extent of the value of any labor done or the material furnished, or both, including any use of the leased equipment and tools.

(c) All claims for wages of mechanics and laborers employed in or about a shop, mill, wareroom, storeroom, manufactory or structure, bridge, reservoir, system of waterworks or other structure, sidewalk, walk, stile, well, drain, drainage ditch, cistern, or any other earth moving operation shall be a lien on all the:

(1) machinery;

(2) tools;

(3) stock;

(4) material; or

(5) finished or unfinished work;

located in or about the shop, mill, wareroom, storeroom, manufactory or other building, bridge, reservoir, system of waterworks, or other structure, sidewalk, walk, stile, well, drain, drainage ditch, sewer, cistern, or earth used in a business.

(d) If the person, firm, limited liability company, or corporation described in subsection (a) is in failing circumstances, the claims described in this section shall be preferred debts whether a claim or notice of lien has been filed.

(e) Subject to subsection (f), a contract:

(1) for the construction, alteration, or repair of a Class 2 structure (as defined in IC 22-12-1-5);

(2) for the construction, alteration, or repair of an improvement on the same real estate auxiliary to a Class 2 structure (as defined in IC 22-12-1-5);

(3) for the construction, alteration, or repair of property that is:

(A) owned, operated, managed, or controlled by a:

(i) public utility (as defined in IC 8-1-2-1);

(ii) municipally owned utility (as defined in IC 8-1-2-1);

(iii) joint agency (as defined in IC 8-1-2-2.2);

(iv) rural electric membership corporation formed under IC 8-1-13-4;

(v) rural telephone cooperative corporation formed under IC 8-1-17; or

(vi) not-for-profit utility (as defined in IC 8-1-2-125);

regulated under IC 8; and

(B) intended to be used and useful for the production, transmission, delivery, or furnishing of heat, light, water, telecommunications services, or power to the public; or

(4) to prepare property for Class 2 residential construction;

may include a provision or stipulation in the contract of the owner and principal contractor that a lien may not attach to the real estate, building, structure, or any other improvement of the owner.

(f) A contract containing a provision or stipulation described in subsection (e) must meet the requirements of this subsection to be valid against subcontractors, mechanics, journeymen, laborers, or persons performing labor upon or furnishing materials or machinery for the property or improvement of the owner. The contract must:

(1) be in writing;

(2) contain specific reference by legal description of the real estate to be improved;

(3) be acknowledged as provided in the case of deeds; and

(4) be filed and recorded in the recorder's office of the county in which the real estate, building, structure, or other improvement is situated not more than five (5) days after the date of execution of the contract.

A contract containing a provision or stipulation described in subsection (e) does not affect a lien for labor, material, or machinery supplied before the filing of the contract with the recorder.

(g) Upon the filing of a contract under subsection (f), the recorder shall:

- (1) record the contract at length in the order of the time it was received in books provided by the recorder for that purpose;
- (2) index the contract in the name of the:
 - (A) contractor; and
 - (B) owner;
 in books kept for that purpose; and
- (3) collect a fee for recording the contract as is provided for the recording of deeds and mortgages.

(h) A person, firm, partnership, limited liability company, or corporation that sells or furnishes on credit any material, labor, or machinery for the alteration or repair of an owner occupied single or double family dwelling or the appurtenances or additions to the dwelling to:

- (1) a contractor, subcontractor, mechanic; or
- (2) anyone other than the occupying owner or the owner's legal representative;

must furnish to the occupying owner of the parcel of land where the material, labor, or machinery is delivered a written notice of the delivery or work and of the existence of lien rights not later than thirty (30) days after the date of first delivery or labor performed. The furnishing of the notice is a condition precedent to the right of acquiring a lien upon the lot or parcel of land or the improvement on the lot or parcel of land.

(i) A person, firm, partnership, limited liability company, or corporation that sells or furnishes on credit material, labor, or machinery for the original construction of a single or double family dwelling for the intended occupancy of the owner upon whose real estate the construction takes place to a contractor, subcontractor, mechanic, or anyone other than the owner or the owner's legal representatives must:

- (1) furnish the owner of the real estate:
 - (A) as named in the latest entry in the transfer books described in IC 6-1.1-5-4 of the county auditor; or
 - (B) if IC 6-1.1-5-9 applies, as named in the transfer books of the **township** assessor **for the township**;
 with a written notice of the delivery or labor and the existence of lien rights not later than sixty (60) days after the date of the first delivery or labor performed; and
- (2) file a copy of the written notice in the recorder's office of the county not later than sixty (60) days after the date of the first delivery or labor performed.

The furnishing and filing of the notice is a condition precedent to the right of acquiring a lien upon the real estate or upon the improvement constructed on the real estate.

(j) A lien for material or labor in original construction does not attach to real estate purchased by an innocent purchaser for value without notice of a single or double family dwelling for occupancy by the purchaser unless notice of intention to hold the lien is recorded under section 3 of this chapter before recording the deed by which the purchaser takes title.

SECTION 73. IC 32-28-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 3. (a) Except as provided in subsection (b), a person who wishes to acquire a lien upon property, whether the claim is due or not, must file in duplicate a sworn statement and notice of the person's intention to hold a lien upon the property for the amount of the claim:

- (1) in the recorder's office of the county; and
- (2) not later than ninety (90) days after performing labor or furnishing materials or machinery described in section 1 of this chapter.

The statement and notice of intention to hold a lien may be verified and filed on behalf of a client by an attorney registered with the clerk of the supreme court as an attorney in good standing under the requirements of the supreme court.

(b) This subsection applies to a person that performs labor or furnishes materials or machinery described in section 1 of this chapter related to a Class 2 structure (as defined in IC 22-12-1-5) or an improvement on the same real estate auxiliary to a Class 2 structure

(as defined in IC 22-12-1-5). A person who wishes to acquire a lien upon property, whether the claim is due or not, must file in duplicate a sworn statement and notice of the person's intention to hold a lien upon the property for the amount of the claim:

- (1) in the recorder's office of the county; and
- (2) not later than sixty (60) days after performing labor or furnishing materials or machinery described in section 1 of this chapter.

The statement and notice of intention to hold a lien may be verified and filed on behalf of a client by an attorney registered with the clerk of the supreme court as an attorney in good standing under the requirements of the supreme court.

(c) A statement and notice of intention to hold a lien filed under this section must specifically set forth:

- (1) the amount claimed;
- (2) the name and address of the claimant;
- (3) the owner's:
 - (A) name; and
 - (B) latest address as shown on the property tax records of the county; and
- (4) the:
 - (A) legal description; and
 - (B) street and number, if any;

of the lot or land on which the house, mill, manufactory or other buildings, bridge, reservoir, system of waterworks, or other structure may stand or be connected with or to which it may be removed.

The name of the owner and legal description of the lot or land will be sufficient if they are substantially as set forth in the latest entry in the transfer books described in IC 6-1.1-5-4 of the county auditor or, if IC 6-1.1-5-9 applies, the transfer books of the **township** assessor **for the township** at the time of filing of the notice of intention to hold a lien.

(d) The recorder shall:

- (1) mail, first class, one (1) of the duplicates of the statement and notice of intention to hold a lien to the owner named in the statement and notice not later than three (3) business days after recordation;
- (2) post records as to the date of the mailing; and
- (3) collect a fee of two dollars (\$2) from the lien claimant for each statement and notice that is mailed.

The statement and notice shall be addressed to the latest address of the owner as specifically set out in the sworn statement and notice of the person intending to hold a lien upon the property.

SECTION 74. IC 32-31-3-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 11. (a) The following courts have original and concurrent jurisdiction in cases arising under this chapter:

- (1) A circuit court.
- (2) A superior court.
- (3) A county court.
- (4) A municipal court.
- ~~(5) A small claims court.~~

(b) A case arising under this chapter may be filed on the small claims docket of a court that has jurisdiction.

SECTION 75. IC 33-23-11-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 7. (a) As used in this chapter, "judge" means a judge of the court of appeals, the tax court, ~~or~~ a circuit, superior, county, ~~small claims~~, or probate court, ~~or~~ **a small claims judge (as defined in IC 33-33-49-5.2).**

(b) The term includes a judge pro tempore, commissioner, or hearing officer if the judge pro tempore, commissioner, or hearing officer sits more than twenty (20) days other than Saturdays, Sundays, or holidays in one (1) calendar year as a judge, commissioner, or hearing officer in any court.

SECTION 76. IC 33-23-12-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 2. (a) As used in this chapter, "court employee" means a person employed by any of the following:

- (1) The supreme court.
- (2) The court of appeals.
- (3) The tax court.
- (4) A circuit court.

- (5) A superior court.
- (6) A juvenile court.
- (7) A probate court.
- (8) A county court.
- (9) A municipal court.
- (10) A city or town court.
- ~~(11) A small claims court.~~

(b) The term does not include a judge **or small claims judge (as defined in IC 33-33-49-5.2)** of any of the courts listed in subsection (a)(1) through ~~(a)(11):~~ **(a)(10).**

SECTION 77. IC 33-30-2-1, AS AMENDED BY P.L.237-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 1. (a) A county court is established in the following counties:

- (1) Floyd County.
- (2) Madison County.

(b) However, a county court listed in subsection (a) is abolished if:

- (1) IC 33-33 provides a small claims docket of the circuit court; **or**
- (2) IC 33-33 provides a small claims docket of the superior court; **or**
- ~~(3) IC 33-34 provides a small claims court;~~

for the county in which the county court was established.

SECTION 78. IC 33-33-49-5.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 5.1. (a) As used in this chapter, "judge" means a person elected under section 13 of this chapter.

(b) The term does not include a small claims judge.

SECTION 79. IC 33-33-49-5.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 5.2. As used in this chapter, "small claims judge" means a person elected under:

- (1) section 13.1 of this chapter; **or**
- (2) IC 33-34-2-1 (before its repeal).

SECTION 80. IC 33-33-49-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 6. (a) There is established a superior court in Marion County. The court consists of the following:

- (1) Thirty-two (32) judges.
- (2) **Nine (9) small claims judges.**

(b) To be qualified to serve as a judge of the court, a person must be, at the time a declaration of candidacy or a petition of nomination under IC 3-8-6 is filed:

- (1) a resident of Marion County; and
- (2) an attorney who has been admitted to the bar of Indiana for at least five (5) years.

(c) To be qualified to serve as a small claims judge, a person must meet the qualifications described in IC 3-8-1-30.

~~(c)~~ (d) During the term of office:

- (1) a judge of the court must remain a resident of Marion County; **and**
- (2) a small claims judge must remain a resident of:
 - (A) Marion County; and
 - (B) the township from which the small claims judge was elected.

SECTION 81. IC 33-33-49-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 9. (a) **Except as provided in subsection (b),** the court has the following jurisdiction:

- (1) Concurrent and coextensive jurisdiction with the Marion circuit court in all cases and upon all subject matters, including civil, criminal, juvenile, probate, and statutory cases and matters, whether original or appellate.
- (2) Original and exclusive jurisdiction in all matters pertaining to the following:
 - (A) The probate and settlement of decedents' estates, trusts, and guardianships.
 - (B) The probate of wills.
 - (C) Proceedings to resist the probate of wills.
 - (D) Proceedings to contest wills.
 - (E) The appointment of guardians, assignees, executors, administrators, and trustees.

(F) The administration and settlement of:

- (i) estates of protected persons (as defined in IC 29-3-1-13) and deceased persons;
- (ii) trusts, assignments, adoptions, and surviving partnerships; and
- (iii) all other probate matters.

(3) Original jurisdiction of all violations of Indiana law. Whenever jurisdiction is by law conferred on a small claims court, the court has the appellate jurisdiction provided by law.

(4) Original and exclusive juvenile jurisdiction.

(b) The small claims division of the court established in section 14(c)(5) of this chapter has the following jurisdiction:

(1) The small claims division of the court has original and concurrent jurisdiction with the court and the Marion circuit court in all civil cases founded on contract or tort in which the debt or damage claimed does not exceed six thousand dollars (\$6,000), not including interest or attorney's fees.

(2) The small claims division of the court has original and concurrent jurisdiction with the court and the Marion circuit court in possessory actions between landlord and tenant in which the past due rent at the time of filing does not exceed six thousand dollars (\$6,000), not including interest or attorney's fees.

(3) The small claims division of the court has original and concurrent jurisdiction with the court and the Marion circuit court in actions for the possession of property where the value of the property sought to be recovered does not exceed six thousand dollars (\$6,000), not including interest and attorney's fees.

(4) The small claims division of the court has original and concurrent jurisdiction with the court and the Marion circuit court in emergency possessory actions between a landlord and tenant under IC 32-31-6.

(5) The small claims division of the court does not have jurisdiction in the following:

(A) Actions seeking injunctive relief or involving partition of real estate.

(B) Actions to declare or enforce a lien, except as provided in section 20.5 of this chapter.

(C) Actions in which the appointment of a receiver is asked.

(D) Suits for dissolution or annulment of marriage.

SECTION 82. IC 33-33-49-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 10. (a) **Except as provided in subsection (b),** the court is a court of record. The court's judgments, decrees, orders, and proceedings have the same effect and shall be enforced in the same manner as those of the circuit court.

(b) The small claims division of the court is not a court of record.

SECTION 83. IC 33-33-49-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 11. (a) The court may adopt rules for conducting the business of the court. Except as provided in subsection (b), in all matters action of the court may only be taken by a vote of a majority of the judges sitting at the time the vote is taken.

(b) Action of the court to remove the presiding judge or either associate presiding judge may only be taken by a vote of two-thirds (2/3) of the judges sitting at the time the vote is taken.

(c) The court has all the powers incident to a court of record in relation to the attendance of witnesses, punishment of contempts, and enforcement of the court's orders. The judges **and small claims judges** may administer oaths, solemnize marriages, take and certify acknowledgments of deeds and all legal instruments, and ~~to~~ give all necessary certificates for the authentication of the records and proceedings in the court.

SECTION 84. IC 33-33-49-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 12. A judge of the court may do the following:

- (1) Grant restraining orders and injunctions.
- (2) Issue writs of habeas corpus.
- (3) Appoint receivers, masters, and commissioners to:

- (A) convey real property;
- (B) grant commissions for the examination of witnesses; and
- (C) appoint other officers necessary to transact the business of the court.

SECTION 85. IC 33-33-49-13.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: **Sec. 13.1. (a) A small claims judge shall be elected for a term of four (4) years that begins January 1 after the year of the small claims judge's election and continues through December 31 in the fourth year. The small claims judge shall hold office for the four (4) year term or until the small claims judge's successor is elected and qualified.**

(b) A small claims judge shall be elected at the general election every four (4) years by the registered voters residing within the township in which the small claims division of the court is located.

SECTION 86. IC 33-33-49-13.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: **Sec. 13.2. (a) A small claims judge serving part time may participate in other gainful employment if the employment does not:**

- (1) interfere with the exercise of the small claims judge's judicial office; or**
- (2) involve any conflict of interest in the performance of the small claims judge's judicial duties.**

(b) A small claims judge serving full time may practice law if the practice does not conflict in any way with the small claims judge's official duties and does not:

- (1) cause the small claims judge to be unduly absent from the court; or**
- (2) interfere with the ready and prompt disposal of the small claims judge's judicial duties.**

(c) A small claims judge and the employees of the small claims division of the court may be eligible to participate in the public employees' retirement fund as provided in IC 5-10.3, but a small claims judge is not eligible to participate as a member in the judges' retirement fund under IC 33-38.

(d) A vacation of one (1) month per year shall be provided for a full-time small claims judge. The executive committee may authorize the appointment of a small claims judge pro tempore to handle the judicial business of the vacationing small claims judge if the executive committee considers it necessary.

SECTION 87. IC 33-33-49-13.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: **Sec. 13.3. A small claims judge shall:**

- (1) furnish a bond in a sum required by the circuit court judge to provide for the:**

- (A) faithful discharge of the duties of the office; and**
- (B) payment or delivery to the proper persons of whatever money or other property may come into the small claims judge's hands when acting as small claims judge; and**

- (2) file the bond with the county recorder.**

The bond must also extend to cover a person that is appointed to act as a small claims judge under section 13.4 of this chapter.

SECTION 88. IC 33-33-49-13.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: **Sec. 13.4. (a) If a small claims judge is unable to preside over the small claims judge's division of the small claims court during any number of days, the small claims judge may appoint in writing a person qualified to be a small claims judge under section 6(c) of this chapter to preside in place of the small claims judge.**

(b) The written appointment shall be entered on the order book or record of the superior court. The appointee shall, after taking the oath prescribed for the small claims judges, conduct the business of the division subject to the same rules and regulations as small claims judges and has the same authority during the continuance of the appointee's appointment.

(c) The appointee is entitled to the same compensation from the county auditor as accruable to the small claims judge in whose place the appointee is serving.

SECTION 89. IC 33-33-49-13.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: **Sec. 13.5. (a) A small claims judge absent from the bench for more than thirty (30) days shall deposit the dockets, books, and papers of the office with:**

- (1) the small claims judge of another township division; or**
- (2) the executive committee of the court;**

as directed by the presiding judge.

(b) A:

- (1) small claims judge with whom the docket of another small claims judge is deposited during a vacancy or an absence; and**

(2) successor of any small claims judge who has the dockets of the successor's predecessor in the successor's possession; may perform all duties that the small claims judge might do legally in relation to the small claims judge's own dockets.

(c) Process shall be returned to the small claims judge or judge who has the legal custody of the docket at the day of return.

SECTION 90. IC 33-33-49-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: **Sec. 14. (a) Not more than thirty (30) days after taking the oath of office, the judges shall meet and designate three (3) of the judges as the executive committee for administrative purposes. The executive committee shall be selected by a vote of two-thirds (2/3) of the judges sitting at the time the vote is taken. If all vacancies cannot be filled by a two-thirds (2/3) vote, vacancies may be filled by such other method as provided by court rule. The executive committee is responsible for the operation and conduct of the court. A member of the executive committee shall serve in the capacity provided by rules adopted by the court under section 11 of this chapter. A member of the executive committee serves for a term of two (2) years beginning on the date of the member's election. Any or all of the members elected to the executive committee may be reelected. Of the three (3) judges elected to the executive committee, not more than two (2) may be members of the same political party.**

(b) One (1) of the three (3) judges elected to the executive committee shall be elected as presiding judge and two (2) of the three (3) judges elected to the executive committee shall be elected as associate presiding judges. Each judge who is a member of the executive committee has an equal vote in all matters pertaining to the business of the court when an action requires a majority vote. Any action taken by the executive committee may be overruled by a vote of two-thirds (2/3) of all the judges sitting at the time the vote is taken. The physical reassignment of a judge to a different courtroom requires a unanimous vote of the executive committee. The executive committee shall assign cases, offices, and courtrooms for trial judges or reassignment of newly filed cases in the interests of the speedy, economical, and uniform disposition of cases. All matters of trial dates, continuances, and subpoenas used for trial shall be determined by the trial judge in accordance with rules of the superior court. The executive committee shall perform other duties as determined by rules of the court.

(c) The court shall, by rules of the court, divide the work of the court into various divisions, including but not limited to the following:

- (1) Civil.**
- (2) Criminal.**
- (3) Probate.**
- (4) Juvenile.**
- (5) Small claims.**

(d) The work of each division shall be allocated by the rules of the court, except to the extent that the work of the small claims division is otherwise provided by law. The judges shall extend aid and assistance to the small claims judges in the conduct of the small claims division of the court.

(e) The judges shall be assigned to various divisions or rooms as provided by rules of the court. Whenever possible, an incumbent judge shall be allowed the option of remaining in a particular room or division. Whenever any action of the court is required, the judges of the court shall act in concert, by a vote under section 11 of this chapter. The court shall keep appropriate records of rules, orders, and assignments of the court.

(f) The executive committee of the court, assisted by the small

claims judges, shall make and adopt uniform rules for conducting the business of the small claims division of the court:

- (1) according to a simplified procedure; and
- (2) in the spirit of sections 20.1 and 20.3 of this chapter.

(g) The executive committee of the court, assisted by the small claims judges, may establish a regular hourly schedule for the performance of duties by full-time and part-time small claims judges. A small claims judge shall maintain the schedule. If the executive committee of the court does not establish a regular hourly schedule, the small claims judge shall perform the small claims judge's duties at regular, reasonable hours. Regardless of whether a regular hourly schedule has been established under this subsection, a small claims judge shall hold sessions in addition to the small claims judge's regular schedule when the business of the small claims judge's court requires.

SECTION 91. IC 33-33-49-14.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: **Sec. 14.1. The small claims division of the court is composed of township divisions. The name of each township division shall be the "_____ Township of Marion County Small Claims Division".**

SECTION 92. IC 33-33-49-14.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: **Sec. 14.2. (a) The voters of each township having a small claims division of the court shall elect a small claims constable at the general election every four (4) years for a term of office of four (4) years, beginning January 1 after election and continuing until a successor is elected and qualified. The ballot must state the:**

- (1) name of the candidate; and
- (2) division of the court for which the candidate is to serve.

(b) Each township small claims division of the court shall have a constable who:

- (1) acts as the bailiff;
- (2) serves the division's personal service of process;
- (3) has police powers to:
 - (A) make arrests;
 - (B) keep the peace; and
 - (C) carry out the orders of the court;
- (4) meets the qualifications prescribed by IC 3-8-1-31;
- (5) is compensated for each process that is delivered to effect personal service when serving as the bailiff;
- (6) is responsible for:
 - (A) the preparation and mailing of all registered or certified service and is compensated for each process served by mail; and
 - (B) all the official acts of the deputies;
- (7) is compensated solely from the service of process fees collected under IC 33-37-4-6.5; and
- (8) may require a deputy to give a bond for the proper discharge of the deputy's duties for an amount fixed by the constable.

(c) The elected constable may appoint full-time and part-time deputies for assistance in the performance of official duties who:

- (1) perform all the official duties required to be performed by the constable;
- (2) possess the same statutory and common law powers and authority as the constable;
- (3) must take the same oath required of the constable;
- (4) are compensated solely from the service of process fees collected under IC 33-37-4-6.5; and
- (5) serve at the pleasure of the constable and may be dismissed at any time with or without cause.

(d) If there is an:

- (1) emergency; or
- (2) inability of a constable to carry out the constable's duties;

the small claims judge may appoint a special constable to carry out the duties of the constable during the emergency or inability.

SECTION 93. IC 33-33-49-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: **Sec. 15. (a) The executive committee, with the approval of two-thirds (2/3) of the judges, shall determine the number of hearing judges, commissioners, referees, bail commissioners, court reporters, probation officers, and**

other personnel required to efficiently serve the court. The salaries of the personnel shall be fixed and paid as provided by law.

(b) The administrative officers shall perform the duties prescribed by the executive committee and shall operate under the jurisdiction of the executive committee and serve at the pleasure of the executive committee.

(c) The executive committee shall see that the court at all times is amply provided with supplies and sufficient clerical and other help, including extra reporters or bailiffs, when needed. Each judge shall appoint the judge's court reporters, bailiffs, secretary, commissioners, and clerks. **Personnel of the small claims division of the court shall be appointed under rules of the court.** In addition to the specified duties of this subsection, the executive committee shall exercise any other powers and duties that may be assigned to the executive committee by an order book entry signed by a two-thirds (2/3) majority of the judges. At least once each month, a general term conference of all superior division judges must be held, at which the presiding judge shall preside. A special order book must be kept for the court in which shall be entered all special rules, proceedings, and similar matters. During an absence or a vacation of a judge who is a member of the executive committee, the senior superior court judge shall act for the absent member, if necessary.

SECTION 94. IC 33-33-49-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: **Sec. 17. (a) Except as provided in subsection (b), the court shall hold sessions in:**

- (1) the city-county building in Indianapolis; and
- (2) other places in Marion County as the court determines.

(b) The city-county council shall:

- (1) provide and maintain in the building and at other places in Marion County as the court may determine suitable and convenient courtrooms for the holding of the court, suitable and convenient jury rooms, and offices for the judges, other court officers and personnel, and other facilities as are necessary; ~~and~~
- (2) provide all necessary furniture and equipment for rooms and offices of the court;
- (3) **determine whether each of the township divisions of the small claims division of the court shall be a full-time or part-time division;**
- (4) **determine where each of the township divisions of the small claims division of the court shall hold sessions; and**
- (5) **in making the determination required by subdivision (4), consider any recommendations of the transitional advisory board established in IC 36-6-1.1.**

SECTION 95. IC 33-33-49-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: **Sec. 19. The court shall maintain a single order book for each division or room of the court that may be signed on behalf of the court by the judge or small claims judge of that division or room of the court. The signature of the judge or small claims judge authenticates the actions of the court.**

SECTION 96. IC 33-33-49-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: **Sec. 20. Except as otherwise provided in this chapter concerning the small claims division of the court, all laws of Indiana and rules adopted by the supreme court governing the circuit court in matters of pleadings, practice, the issuing and service of process, the giving of notice, the appointing of judges pro tempore and special judges, changes of venue from the judge and from the county, adjournments by the court and by the clerk in the absence of the judge, and the selection of jurors for the court apply to and govern the court.**

SECTION 97. IC 33-33-49-20.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: **Sec. 20.1. A simplified procedure applies to and governs the small claims division of the court. The simplified procedure shall be established by rule to enable any person, including the state, to:**

- (1) file the necessary papers; and
- (2) present the person's case in court;

either to seek or to defend against a small claim without consulting or being represented by an attorney.

SECTION 98. IC 33-33-49-20.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: **Sec. 20.2. (a) Upon the filing of a complaint in the small claims division of the court, service of**

original process shall be attempted by personal service of the summons and complaint on the defendant, which may include leaving a copy of the service at the last known place of residence of the party if the process server properly describes on the return the residence, noting any of its unique features, and mailing by first class a copy of the service without charge to the party at the same last known place of residence.

(b) If service cannot be made in this manner, service of process shall be made in an alternate manner as provided by the Indiana Rules of Civil Procedure.

(c) Subsequent service of process, other than that originally served upon filing of the complaint, may be made by registered or certified mail or another manner authorized by the Indiana Rules of Civil Procedure.

SECTION 99. IC 33-33-49-20.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 20.3. (a) A trial in the small claims division of the court:

- (1) must be informal, with the sole objective of dispensing speedy justice between the parties according to the rules of substantive law; and
- (2) may not be bound by the statutory provisions or rules of practice, procedure, pleadings, or evidence, except the provisions relating to privileged communications and offers of compromise.

(b) There may not be a trial by jury in the small claims division of the court.

(c) A filing of a civil claim in the small claims division of the court constitutes a waiver of trial by jury by the plaintiff.

(d) A defendant in a small claims case waives the right to trial by jury unless the defendant requests a jury trial at least three (3) calendar days before the trial date that appears on the complaint. Upon the filing of a jury trial request, the small claims division of the court shall transfer the claim out of the small claims division to the general jurisdiction of the court. The defendant shall pay all costs necessary for filing the claim in the general jurisdiction of the court as if the cause had been filed initially in the general jurisdiction of the court.

(e) A notice of claim filed in the small claims division of the court must include a statement that reflects the provisions of subsection (d).

SECTION 100. IC 33-33-49-20.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 20.4. (a) Except for a claim between landlord and tenant, a case within the jurisdiction of a township small claims division may be:

- (1) venued;
- (2) commenced; and
- (3) decided;

in any township small claims division within the county. However, upon a motion for change of venue filed by the defendant within ten (10) days of service of the summons, the township small claims division in which the motion was filed shall determine in accordance with subsection (b) whether required venue lies with it or with another township small claims division in the county in which the small claims action was filed.

(b) The venue determination to be made under subsection (a) must be made in the following order:

- (1) In an action upon a debt or an account, venue is in the township where any defendant has consented to venue in a writing signed by the defendant.
- (2) Venue is in the township where a transaction or occurrence giving rise to any part of the claim took place.
- (3) Venue is in the township (in a county of the small claims division) where the greater percentage of individual defendants included in the complaint resides or, if there is not a greater percentage, the place where any individual named as a defendant:
 - (A) resides;
 - (B) owns real estate; or
 - (C) rents an apartment or real estate or where the principal office or place of business of any defendant is located.
- (4) Venue is in the township where the claim was filed if

there is no other township in the county in which the small claims division sits in which required venue lies.

(c) Venue of any claim between landlord and tenant must be in the township where the real estate is located.

(d) If a written motion challenging venue is received by the township small claims division, the township small claims division shall rule whether required venue lies in the township of filing.

SECTION 101. IC 33-33-49-20.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 20.5. (a) If the small claims judgment or order is against the defendant, the defendant shall pay the judgment at any time and upon terms and conditions as the small claims judge orders.

(b) If the small claims judge orders that the judgment be paid in specified installments, the small claims judge may stay the issuance of execution and other supplementary process during the period of compliance with the order.

(c) A stay ordered under subsection (b) may be modified or vacated by the small claims division of the court.

(d) All small claims judgments rendered in civil actions may be recorded in the judgment docket book of the proper township small claims division of the court.

(e) A judgment entered by a small claims judge is a lien on real estate when entered in the circuit court judgment docket in the same manner as a judgment in a court of general jurisdiction becomes a lien on real estate under IC 34-55-9.

(f) The judgments of the small claims division of the court shall be entered and properly indexed in the name of the judgment defendant as judgments of the general jurisdiction of the court are entered and indexed.

SECTION 102. IC 33-33-49-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 22. (a) A party may appeal an order or a judgment of the court in any case where an appeal may be had from a similar order or judgment of the circuit court.

(b) All appeals from judgments of the small claims division of the court shall be taken to the general jurisdiction of the court and tried de novo. The rules of procedure for appeals must be in accordance with the rules established by the court. The appellant shall pay all costs necessary for the filing of the case in the general jurisdiction of the court as if the appeal were a case that had been filed initially in the general jurisdiction of the court.

SECTION 103. IC 33-33-49-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 24. (a) The judge of the Marion circuit court may, with the consent of the court acting through the superior court presiding judge under rules adopted by the court, transfer any action, cause, or proceeding filed and docketed in the circuit court to the court by transferring all original papers and instruments filed in that action, cause, or proceeding without further transcript to be redocketed and disposed of as if originally filed with the court.

(b) The superior court presiding judge may not consent to a transfer to the small claims division of the court unless:

- (1) the small claims division of the court has jurisdiction of the cause concurrent with the circuit court; and
- (2) the small claims judge consents to the transfer.

SECTION 104. IC 33-33-49-25.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 25.1. (a) A judge of the court may order a cause filed in the general jurisdiction of the court to be transferred to the small claims division of the court if:

- (1) the small claims division of the court has jurisdiction of the cause concurrent with the general jurisdiction of the court; and
- (2) the small claims judge consents to the transfer.

(b) The presiding judge may transfer cases from one (1) township small claims division of the court to another as necessary.

SECTION 105. IC 33-33-49-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 26. The judge of the Marion circuit court may sit as a judge or small claims judge of the court, with the court's permission, in all matters pending before the court, without limitation and without any further order, in the

same manner as a judge of the court with all the rights and powers of an elected judge **or small claims judge** of the court.

SECTION 106. IC 33-33-49-26.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: **Sec. 26.1. (a) A judge of the court may sit as a special small claims judge in the small claims division of the court.**

(b) Except for mileage and travel expenses, a judge serving as a special small claims judge under this section may not receive compensation in addition to the salary provided under this article.

(c) A small claims judge may sit in place of another small claims judge and perform the other small claims judge's duties:

(1) at the direction of or with the approval of the presiding judge; and

(2) with the consent of the respective judges.

SECTION 107. IC 33-33-49-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: **Sec. 27. Each judge and small claims judge, before entering upon the duties of office, shall take and subscribe the following oath or affirmation:**

"I solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of the State of Indiana and that I will faithfully discharge the duties of (judge **or small claims judge**) of the superior court of Marion County to the best of my ability."

The oath shall be filed with the clerk of the county.

SECTION 108. IC 33-33-49-30 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: **Sec. 30. (a) A judge remains qualified to hold office as long as the judge:**

(1) remains fair and impartial in judicial functions;

(2) maintains a high standard of morality in dealings, public and private;

(3) remains physically and mentally capable of performing all the functions and duties of the office of judge; and

(4) continues to reside in Marion County.

(b) A small claims judge remains qualified to hold office as long as the small claims judge meets the requirements of subsection (a) and:

(1) continues to reside in the township from which the small claims judge was elected; or

(2) was elected as a small claims judge in the township before January 1, 1999.

~~(c)~~ **(c) Complaints against a judge or small claims judge must be forwarded to the commission on judicial qualifications as provided in IC 33-38-13 by any judge or small claims judge of the superior court.**

~~(d)~~ **(d) A judge of the court must retire upon becoming seventy-five (75) years of age. If the judge wishes to retire before the judge's term has ended or upon reaching the mandatory retirement age, the judge shall provide written notice to the presiding judge of the court. The judge shall continue to hold office until a successor has been appointed and qualified.**

~~(e)~~ **(e) When a vacancy occurs in the court among the:**

(1) judges of the court by death, removal, retirement, or for any other reason, the governor shall appoint a successor judge who:

(A) serves the balance of the term of the vacating judge; ~~The successor judge must be and~~

(B) is a member of the same political party as the judge who is to be succeeded; and

(2) small claims judges of the court by death, removal, retirement, or any other reason, the vacancy shall be filled under IC 3-13-10.

SECTION 109. IC 33-33-49-34 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: **Sec. 34. (a) The clerk of the superior court shall furnish the following:**

(1) All blanks, forms, and papers required for use in all criminal cases and in all civil actions involving actions by a city or town for violations of municipal penal ordinances.

(2) All books, papers, stationery, furniture, and other equipment and supplies necessary for keeping the records of the proceedings in all rooms and divisions of the superior court and for the transaction of all business of the court.

(3) Necessary computerization of court records.

(b) The materials required under this section shall be furnished at the expense of the county.

(c) The presiding judge of the court, by an order entered on the court records signed by the presiding judge, shall determine and prescribe the forms of the following:

(1) All summonses, notices, subpoenas, warrants, affidavits, complaints, writs, and all other papers and anything else required to be used in the cases relating to violations of criminal statutes or municipal ordinances.

(2) All other books, records, papers, and documents to be used by the court and by the officers of the court and the prosecutors.

In the absence of an order under this subsection, those charged with the duty of prosecuting cases involving either criminal offenses or the violation of municipal ordinances may adopt, change, order, and use all necessary forms and instruments as conform substantially to the practice and procedure applicable.

SECTION 110. IC 33-37-3-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: **Sec. 6. (a) Except as provided in subsection (b), court costs fees under this chapter include service of process by certified mail, unless service by the sheriff is requested by the person who institutes the action.**

(b) Court costs fees under this chapter do not include service of process fees collected under IC 33-37-4-6.5.

SECTION 111. IC 33-37-4-4, AS AMENDED BY P.L.176-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: **Sec. 4. (a) The clerk shall collect a civil costs fee of one hundred dollars (\$100) from a party filing a civil action. This subsection does not apply to the following civil actions:**

(1) Proceedings to enforce a statute defining an infraction under IC 34-28-5 (or IC 34-4-32 before its repeal).

(2) Proceedings to enforce an ordinance under IC 34-28-5 (or IC 34-4-32 before its repeal).

(3) Proceedings in juvenile court under IC 31-34 or IC 31-37.

(4) Proceedings in paternity under IC 31-14.

~~(5) Proceedings in small claims court under IC 33-34.~~

~~(6)~~ **(5) Proceedings in all actions described in section 7 of this chapter.**

(b) In addition to the civil costs fee collected under this section, the clerk shall collect the following fees, if they are required under IC 33-37-5:

(1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).

(2) A support and maintenance fee (IC 33-37-5-6).

(3) A document storage fee (IC 33-37-5-20).

(4) An automated record keeping fee (IC 33-37-5-21).

(5) A public defense administration fee (IC 33-37-5-21.2).

(6) A judicial insurance adjustment fee (IC 33-37-5-25).

(7) A judicial salaries fee (IC 33-37-5-26).

(8) A court administration fee (IC 33-37-5-27).

(9) A service fee (IC 33-37-5-28).

SECTION 112. IC 33-37-4-6, AS AMENDED BY P.L.176-2005, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: **Sec. 6. (a) Except as provided in section 6.5 of this chapter, for each small claims action, the clerk shall collect the following fees:**

(1) From the party filing the action:

(A) a small claims costs fee of thirty-five dollars (\$35); and

(B) a small claims service fee of ten dollars (\$10) for each named defendant.

(2) From any party adding a defendant, a small claims service fee of ten dollars (\$10) for each defendant added in the action.

However, a clerk may not collect a small claims costs fee or small claims service fee for a small claims action filed by or on behalf of the attorney general.

(b) In addition to a small claims costs fee and small claims service fee collected under this section, the clerk shall collect the following fees, if they are required under IC 33-37-5:

(1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).

(2) A document storage fee (IC 33-37-5-20).

(3) An automated record keeping fee (IC 33-37-5-21).

- (4) A public defense administration fee (IC 33-37-5-21.2).
- (5) A judicial insurance adjustment fee (IC 33-37-5-25).
- (6) A judicial salaries fee (IC 33-37-5-26).
- (7) A court administration fee (IC 33-37-5-27).

SECTION 113. IC 33-37-4-6.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: **Sec. 6.5. (a) For each small claims action filed under the jurisdiction of IC 33-33-49-9(b), the clerk shall collect from the party filing the action the following fees:**

- (1) A township docket fee of five dollars (\$5) plus forty-five percent (45%) of the infraction or ordinance violation costs fee under IC 33-37-4-2.**
- (2) The bailiff's service of process by registered or certified mail fee of thirteen dollars (\$13) for each service.**
- (3) The cost for the personal service of process by the bailiff or other process server of thirteen dollars (\$13) for each service.**
- (4) Witness fees, if any, in the amount provided by IC 33-37-10-3 to be taxed and charged in the circuit court.**
- (5) A redocketing fee, if any, of five dollars (\$5).**
- (6) A document storage fee under IC 33-37-5-20.**
- (7) An automated record keeping fee under IC 33-37-5-21.**
- (8) A late fee, if any, under IC 33-37-5-22.**
- (9) A public defense administration fee under IC 33-37-5-21.2.**

The docket fee and the cost for the initial service of process shall be paid at the institution of a case. The cost of service after the initial service shall be assessed and paid after service has been made. The cost of witness fees shall be paid before the witnesses are called.

(b) If the amount of the township docket fee computed under subsection (a)(1) is not equal to a whole number, the amount shall be rounded to the next highest whole number.

SECTION 114. IC 33-37-5-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: **Sec. 22. (a) Except as provided in subsection (e), this section applies to an action if all the following apply:**

- (1) The defendant is found, in a court that has a local court rule imposing a late payment fee under this section, to have:**
 - (A) committed a crime;**
 - (B) violated a statute defining an infraction;**
 - (C) violated an ordinance of a municipal corporation; or**
 - (D) committed a delinquent act.**
- (2) The defendant is required to pay:**
 - (A) court costs, including fees;**
 - (B) a fine; or**
 - (C) a civil penalty.**
- (3) The defendant is not determined by the court imposing the court costs, fine, or civil penalty to be indigent.**
- (4) The defendant fails to pay to the clerk the costs, fine, or civil penalty in full before the later of the following:**
 - (A) The end of the business day on which the court enters the conviction or judgment.**
 - (B) The end of the period specified in a payment schedule set for the payment of court costs, fines, and civil penalties under rules adopted for the operation of the court.**

(b) A court may adopt a local rule to impose a late payment fee under this section on defendants described in subsection (a).

(c) Subject to subsection (d), the clerk of a court that adopts a local rule imposing a late payment fee under this section shall collect a late payment fee of twenty-five dollars (\$25) from a defendant described in subsection (a).

(d) Notwithstanding IC 33-37-2-2, a court may suspend a late payment fee if the court finds that the defendant has demonstrated good cause for failure to make a timely payment of court costs, a fine, or a civil penalty.

(e) A plaintiff or defendant in ~~an~~ a small claims action under ~~IC 33-34~~ IC 33-33-49 shall pay a late fee of twenty-five dollars (\$25) if the plaintiff or defendant:

- (1) is required to pay court fees or costs under ~~IC 33-34-8-1~~; IC 33-37-4-6.5;**
- (2) is not determined by the court imposing the court costs to be**

indigent; and

- (3) fails to pay the costs in full before the later of the following:**
 - (A) The end of the business day on which the court enters the judgment.**
 - (B) The end of the period specified in a payment schedule set for the payment of court costs under rules adopted for the operation of the court.**

A court may suspend a late payment fee if the court finds that the plaintiff or defendant has demonstrated good cause for failure to make timely payment of the fee.

SECTION 115. IC 33-37-7-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: **Sec. 4.5. The clerk of a circuit court in a county having a consolidated city shall forward to the controller of the consolidated city one hundred percent (100%) of the fees collected under the following:**

- (1) IC 33-37-4-6.5(a)(1) (township docket fees).**
- (2) IC 33-37-4-6.5(a)(2) (bailiff's service of process fees).**
- (3) IC 33-37-4-6.5(a)(3) (service of process costs).**
- (4) IC 33-37-4-6.5(a)(4) (witness fees).**
- (5) IC 33-37-4-6.5(a)(5) (redocketing fees).**

The clerk shall forward the fees in accordance with section 12 of this chapter.

SECTION 116. IC 33-37-5-21.2, AS AMENDED BY P.L.176-2005, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: **Sec. 21.2. (a) This subsection does not apply to the following:**

- (1) A criminal proceeding.**
- (2) A proceeding ~~for~~ to enforce a statute defining an infraction. ~~violation~~.**
- (3) A proceeding for an ordinance violation.**

In each action filed in a court described in IC 33-37-1-1 and in each small claims action in a ~~court described in IC 33-34~~, **division established under IC 33-33-49-14(c)(5)**, the clerk shall collect a public defense administration fee of three dollars (\$3).

(b) In each action in which a person is:

- (1) convicted of an offense;**
- (2) required to pay a pretrial diversion fee;**
- (3) found to have ~~violated~~ committed an infraction; or**
- (4) found to have violated an ordinance;**

the clerk shall collect a public defense administration fee of three dollars (\$3).

SECTION 117. IC 33-37-5-26, AS ADDED BY P.L.176-2005, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: **Sec. 26. (a) This subsection does not apply to the following:**

- (1) A criminal proceeding.**
- (2) A proceeding for an infraction violation.**
- (3) A proceeding for an ordinance violation.**
- (4) A small claims action.**

In each action filed in a court described in IC 33-37-1-1, the clerk shall collect a judicial salaries fee equal to the amount specified in the schedule in subsection (d).

(b) In each small claims action filed in a court described in IC 33-37-1-1 or ~~IC 33-34~~, in a division established under IC 33-33-49-14(c)(5) the clerk shall collect a judicial salaries fee specified in the schedule in subsection (e).

(c) In each action in which a person is:

- (1) convicted of an offense;**
- (2) required to pay a pretrial diversion fee;**
- (3) found to have violated an infraction; or**
- (4) found to have violated an ordinance;**

the clerk shall collect a judicial salaries fee specified in the schedule in subsection (d).

(d) Beginning:

- (1) after June 30, 2005, and ending before July 1 of the first state fiscal year after June 30, 2006, in which salaries are increased under IC 33-38-5-8.1, the judicial salaries fee to which this subsection applies is fifteen dollars (\$15);**
- (2) after June 30 immediately preceding the first state fiscal year in which salaries are increased under IC 33-38-5-8.1 and ending before July 1 of the second state fiscal year after June 30, 2006, in which salaries are increased under IC 33-38-5-8.1, the**

judicial salaries fee to which this subsection applies is sixteen dollars (\$16);

(3) after June 30 immediately preceding the second state fiscal year in which salaries are increased under IC 33-38-5-8.1 and ending before July 1 of the third state fiscal year after June 30, 2006, in which salaries are increased under IC 33-38-5-8.1, the judicial salaries fee to which this subsection applies is seventeen dollars (\$17);

(4) after June 30 immediately preceding the third state fiscal year in which salaries are increased under IC 33-38-5-8.1 and ending before July 1 of the fourth state fiscal year after June 30, 2006, in which salaries are increased under IC 33-38-5-8.1, the judicial salaries fee to which this subsection applies is eighteen dollars (\$18);

(5) after June 30 immediately preceding the fourth state fiscal year in which salaries are increased under IC 33-38-5-8.1 and ending before July 1 of the fifth state fiscal year after June 30, 2006, in which salaries are increased under IC 33-38-5-8.1, the judicial salaries fee to which this subsection applies is nineteen dollars (\$19); and

(6) after June 30 immediately preceding the fifth state fiscal year in which salaries are increased under IC 33-38-5-8.1, the judicial salaries fee to which this subsection applies is twenty dollars (\$20).

(e) Beginning:

(1) after June 30, 2005, and ending before July 1 of the first state fiscal year after June 30, 2006, in which salaries are increased under IC 33-38-5-8.1, the judicial salaries fee to which this subsection applies is ten dollars (\$10);

(2) after June 30 immediately preceding the first state fiscal year in which salaries are increased under IC 33-38-5-8.1 and ending before July 1 of the second state fiscal year after June 30, 2006, in which salaries are increased under IC 33-38-5-8.1, the judicial salaries fee to which this subsection applies is eleven dollars (\$11);

(3) after June 30 immediately preceding the second state fiscal year in which salaries are increased under IC 33-38-5-8.1 and ending before July 1 of the third state fiscal year after June 30, 2006, in which salaries are increased under IC 33-38-5-8.1, the judicial salaries fee to which this subsection applies is twelve dollars (\$12);

(4) after June 30 immediately preceding the third state fiscal year in which salaries are increased under IC 33-38-5-8.1 and ending before July 1 of the fourth state fiscal year after June 30, 2006, in which salaries are increased under IC 33-38-5-8.1, the judicial salaries fee to which this subsection applies is thirteen dollars (\$13);

(5) after June 30 immediately preceding the fourth state fiscal year in which salaries are increased under IC 33-38-5-8.1 and ending before July 1 of the fifth state fiscal year after June 30, 2006, in which salaries are increased under IC 33-38-5-8.1, the judicial salaries fee to which this subsection applies is fourteen dollars (\$14); and

(6) after June 30 immediately preceding the fifth state fiscal year in which salaries are increased under IC 33-38-5-8.1, the judicial salaries fee to which this subsection applies is fifteen dollars (\$15).

SECTION 118. IC 33-37-5-27, AS ADDED BY P.L.176-2005, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 27. (a) This subsection does not apply to the following:

- (1) A criminal proceeding.
- (2) A proceeding to enforce a statute defining an infraction.
- (3) A proceeding for an ordinance violation.

In each action filed in a court described in IC 33-37-1-1 and in each small claims action in a court described in IC 33-34, division established under IC 33-33-49-14(c)(5), the clerk shall collect a court administration fee of two dollars (\$2).

(b) In each action in which a person is:

- (1) convicted of an offense;
- (2) required to pay a pretrial diversion fee;
- (3) found to have committed an infraction; or
- (4) found to have violated an ordinance;

the clerk shall collect a court administration fee of two dollars (\$2).

SECTION 119. IC 33-38-5-6, AS AMENDED BY P.L.159-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 6. (a) The annual salary of each full-time judge of a circuit, superior, municipal, county, or probate court is one hundred ten thousand five hundred dollars (\$110,500), as adjusted after June 30, 2006, under section 8.1 of this chapter, paid by the state. In addition, a judge under this section may receive any additional salary provided by the county under IC 36-2-5-14 or IC 36-3-6-3(c). The state shall deposit quarterly the money received from the counties under subsection (c) for additional salary in the state general fund.

(b) Before November 2 of each year, the county auditor of each county shall certify to the division of state court administration the amounts, if any, to be provided by the county during the ensuing calendar year for judges' salaries under IC 36-2-5-14 or IC 36-3-6-3(c).

(c) When making each payment under subsection (a), the county shall determine for each judge whether the total of:

- (1) the payment made on behalf of that judge;
- (2) previous payments made on behalf of that judge in the same calendar year; and
- (3) the state share of the judge's salary under subsection (a);

exceeds the Social Security wage base established by the federal government for that year. If the total does not exceed the Social Security wage base, the payment on behalf of that judge must also be accompanied by an amount equal to the employer's share of Social Security taxes and Medicare taxes. If the total exceeds the Social Security wage base, the part of the payment on behalf of the judge that is below the Social Security wage base must be accompanied by an amount equal to the employer's share of Social Security taxes and Medicare taxes, and the part of the payment on behalf of the judge that exceeds the Social Security wage base must be accompanied by an amount equal to the employer's share of Medicare taxes. Payments made under this subsection shall be deposited in the state general fund under subsection (a).

(d) For purposes of determining the amount of life insurance premiums to be paid by a judge who participates in a life insurance program that:

- (1) is established by the state;
- (2) applies to a judge who is covered by this section; and
- (3) bases the amount of premiums to be paid by the judge on the amount of the judge's salary;

the judge's salary does not include any amounts paid to the state by a county under subsection (a).

(e) This section does not apply to a small claims judge (as defined in IC 33-33-49-5.2).

SECTION 120. IC 33-38-5-6.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 6.1. (a) **This section applies to a small claims judge (as defined in IC 33-33-49-5.2).**

(b) The salary of a small claims judge who serves full time must be in an amount determined by the auditor of the county and approved by the city-county council.

(c) The salary of each small claims judge who serves part time must be in an amount determined by the auditor of the county and approved by the city-county council.

(d) The salary of a small claims judge may not be reduced during the small claims judge's term of office. At any other time, the salary of any full-time or part-time small claims judge may be increased or decreased by the auditor with the approval of the city-county council.

(e) The annual salary of a small claims judge shall be paid in twelve (12) equal monthly installments by the county.

(f) A small claims judge may not receive remuneration other than a salary set under this section for the performance of the small claims judge's official duties except payments for performing marriage ceremonies.

SECTION 121. IC 33-38-6-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 7. (a) As used in this chapter, "judge" means a person who serves or has served as a regular judge or justice of one (1) or more of the following courts:

- (1) Supreme court.

- (2) Court of appeals.
- (3) Indiana tax court.
- (4) Circuit court of a judicial circuit.
- (5) Superior court of a county.
- (6) Criminal court of a county having a separate criminal court.
- (7) Probate court of a county having a separate probate court.
- (8) Juvenile court of a county having a separate juvenile court.
- (9) Municipal court of a county.
- (10) County court of a county.

(b) The term does not include a small claims judge (as defined in IC 33-33-49-5.2).

SECTION 122. IC 33-38-12-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 3. As used in this chapter, "judge" means an individual who holds or formerly held one (1) of the following offices or appointments:

- (1) Justice of the supreme court.
- (2) Judge of the court of appeals.
- (3) Judge of the tax court.
- (4) Judge of a circuit court.
- (5) Judge of a superior court.
- (6) Judge of a probate court.
- (7) Judge of a municipal court.
- (8) Judge of a county court.
- (9) Judge of a city court.
- (10) Judge of a town court.
- (11) **Small claims judge, of a small claims court.**
- (12) A judge pro tempore, senior judge, temporary judge, or any other individual serving as judge in an action or a proceeding in an Indiana court.
- (13) Bail commissioner.
- (14) Magistrate.
- (15) Master commissioner.
- (16) Probate commissioner.
- (17) Referee.

SECTION 123. IC 33-38-14-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 4. As used in this chapter, "judge" means a:

- (1) judge of a superior or probate court; **and**
- (2) **small claims judge (as defined in IC 33-33-49-5.2).**

SECTION 124. IC 33-41-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 7. (a) This section applies to the small claims ~~court division~~ established under ~~IC 33-34: IC 33-33-49-14(c)(5).~~

(b) The person who is designated by a **small claims judge** of the court to prepare transcripts may collect a fee of not more than five dollars (\$5) for each transcript from a person who requests the preparation of a transcript.

SECTION 125. IC 34-30-2-58 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 58. IC 15-3-4-2 (Concerning township trustees, **a consolidated city**, or persons hired by them for the removal of detrimental plants upon another person's real property).

SECTION 126. IC 36-1-2-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 22. (a) "Township", **refers to except as provided in subsection (b), means:**

- (1) a civil township, unless the reference is to a congressional township or school township; **or**
- (2) **except as provided in IC 36-6-1.1, IC 36-6-4.1, and IC 36-6-6.1, a township district for a county having a consolidated city, unless the reference is to a congressional township or school township or the context requires otherwise.**

(b) "Township" means only a civil township for purposes of the following:

- (1) IC 36-7-4.
- (2) IC 36-9-27.

SECTION 127. IC 36-2-15-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 5. (a) The county assessor shall perform the functions assigned by statute to the county assessor, including the following:

- (1) Countywide equalization.
- (2) Selection and maintenance of a countywide computer system.

(3) Certification of gross assessments to the county auditor.

(4) Discovery of omitted property.

(b) The county assessor shall perform the functions of an assessing official under IC 36-6-5-2 in a township with a township assessor-trustee if the township assessor-trustee:

- (1) fails to make a report that is required by law;
- (2) fails to deliver a property tax record to the appropriate officer or board;
- (3) fails to deliver an assessment to the county assessor; or
- (4) fails to perform any other assessing duty as required by statute or rule of the department of local government finance;

within the time period prescribed by statute or rule of the department or within a later time that is necessitated by reason of another official failing to perform the official's functions in a timely manner.

(c) A township with a township trustee-assessor may, with the consent of the township board, enter into an agreement with:

- (1) the county assessor; or
- (2) another township assessor in the county;

to perform any of the functions of an assessing official. A township trustee-assessor may not contract for the performance of any function for a period of time that extends beyond the completion of the township trustee-assessor's term of office.

(d) In a county having a consolidated city:

- (1) **the county assessor shall perform the functions of an assessing official and other duties of an assessing official prescribed by statute in each township in the county, including assessment duties prescribed by IC 6-1.1; and**
- (2) **the controller of the consolidated city or the controller's designee shall administer the dog tax and township dog fund as prescribed by IC 15-5-9.**

SECTION 128. IC 36-3-1-6.1, AS ADDED BY P.L.227-2005, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 6.1. (a) ~~This section applies only in a county containing a consolidated city. If the requirements of subsection (g) are satisfied, Except as provided in section 6.3 of this chapter, after December 31, 2006, the fire departments of the following are consolidated into the fire department of a consolidated city (referred to as "the consolidated fire department"):~~

- (1) ~~A township for which the consolidation is approved by the township legislative body and trustee and the legislative body and mayor of the located in a county having a consolidated city.~~
- (2) ~~Any fire protection territory established under IC 36-8-19 that is located in a township described in subdivision (1); county having a consolidated city.~~
- (3) ~~The territory in which an airport authority established for a consolidated city under IC 8-22-3 may provide fire protection services.~~

(b) If the requirements of subsection (g) are satisfied, Except as provided in section 6.3 of this chapter, after December 31, 2006, the consolidated fire department shall provide fire protection services within an entity described in subsection (a)(1) or (a)(2) in which the requirements of subsection (g) are satisfied on the date agreed to in the resolution of the township legislative body and the ordinance of the legislative body of the consolidated city: for the entire county.

(c) If the requirements of subsection (g) are satisfied and the fire department of an entity listed in subsection (a) is consolidated into the fire department of the consolidated city, All of the property, equipment, records, rights, and contracts of the department consolidated into the fire department of the consolidated city departments and territories listed in subsection (a) are:

- (1) transferred to; or
- (2) assumed by;

the consolidated city. on the effective date of the consolidation. However, real property other than real property used as a fire station may be transferred only on terms mutually agreed to by the legislative body and mayor of the consolidated city and the trustee and legislative body of the township in which that real property is located.

(d) If the requirements of subsection (g) are satisfied and the fire department of an entity listed in subsection (a) is consolidated into the fire department of the consolidated city, The employees of the fire department consolidated into the fire department of the consolidated city departments and territories listed in subsection (a) cease

employment with the department of the entity departments and territories listed in subsection (a) and become employees of the consolidated fire department on the effective date of the consolidation: after December 31, 2006. The consolidated city shall assume all agreements with labor organizations that:

- (1) are in effect on the effective date of the consolidation; on December 31, 2006, and that expire on or after January 1, 2007; and
 - (2) apply to employees of the department consolidated into the fire department of the consolidated city departments and territories listed in subsection (a) who become employees of the consolidated fire department.
- (e) If the requirements of Except as provided in subsection (g) are satisfied and the fire department of an entity listed in subsection (a) is consolidated into the fire department of a consolidated city; (h), the consolidated city shall assume, defease, pay, or refund all the indebtedness related to fire protection services incurred before the effective date of the consolidation January 1, 2007, by:

- (1) the entity departments and territories listed in subsection (a); or
- (2) a building, holding, or leasing corporation on behalf of the entity whose fire department is consolidated into the consolidated fire department under subsection (a) shall remain the debt of the entity and does not become and may not be assumed by the consolidated city. Indebtedness related to fire protection services that is incurred by the consolidated city before the effective date of the consolidation shall remain the debt of the consolidated city and property taxes levied to pay the debt may only be levied by the fire special service district: a department or territory listed in subsection (a).

(f) If the requirements of subsection (g) are satisfied and the fire department of an entity listed in subsection (a) is consolidated into the fire department of a consolidated After December 31, 2006, the merit board and the merit system of the each fire department that is consolidated are listed in subsection (a) are dissolved, on the effective date of the consolidation; and the duties of the merit boards are transferred to and assumed by the merit board for the consolidated fire department. on the effective date of the consolidation:

(g) A township legislative body, after approval by the township trustee, may adopt a resolution approving the consolidation of the township's fire department with the fire department of the consolidated city. A township legislative body may adopt a resolution under this subsection only after the township legislative body has held a public hearing concerning the proposed consolidation. The township legislative body shall hold the hearing not earlier than thirty (30) days after the date the resolution is introduced. The hearing shall be conducted in accordance with IC 5-14-1.5 and notice of the hearing shall be published in accordance with IC 5-3-1. If the township legislative body has adopted a resolution under this subsection; the township legislative body shall, after approval from the township trustee, forward the resolution to the legislative body of the consolidated city. If such a resolution is forwarded to the legislative body of the consolidated city; the legislative body of the consolidated city may adopt an ordinance, approved by the mayor of the consolidated city; approving the consolidation of the fire department of the township into the fire department of the consolidated city and the requirements of this subsection are satisfied. The consolidation shall take effect on the date agreed to by the township legislative body in its resolution and by the legislative body of the consolidated city in its ordinance approving the consolidation.

(h) The following apply if the requirements of subsection (g) are satisfied:

- (1) The consolidation of the fire department of that township is effective on the date agreed to by the township legislative body in the resolution and by the legislative body of the consolidated city in its ordinance approving the consolidation.
- (2) Notwithstanding any other provision; a firefighter:
 - (A) who is a member of the 1977 fund before the effective date of a consolidation under this section; and
 - (B) who, after the consolidation; becomes an employee of the fire department of a consolidated city under this section; remains a member of the 1977 fund without being required to meet the requirements under IC 36-8-8-19 and IC 36-8-8-21.

The firefighter shall receive credit for any service as a member of the 1977 fund before the consolidation to determine the firefighter's eligibility for benefits under IC 36-8-8.

(g) Notwithstanding any other law, to assume, defease, pay, or refund all or a part of the indebtedness described in subsection (e) the consolidated city is not required to comply with any other statutory procedures or approvals that apply when a unit incurs indebtedness.

(h) Notwithstanding subsections (e) and (g), the consolidated city may not assume all or a part of the indebtedness described in subsection (e) that will exceed the limitations on the amount of indebtedness that the consolidated city may incur.

(i) The rights of the trustee and the bondholders with respect to any:

- (1) bonds or other indebtedness described in subsection (e); or
- (2) bond resolution, trust agreement or indenture, security agreement, purchase agreement, or other undertaking with respect to indebtedness described in subsection (e); remain the same, although the powers, duties, agreements, and liabilities of the departments listed in subsection (a) have been transferred to the consolidated city, and the consolidated city shall be considered to have assumed all those powers, duties, agreements, and liabilities.

(j) To provide for the payment of the expenses for the operation of the consolidated fire department, the consolidated city may levy property taxes on taxable property located within the area served by the consolidated fire department.

(k) The fire special service district established under IC 36-3-1-6 may levy property taxes to provide for the payment of expenses for the operation of the consolidated fire department:

- (1) within; or
- (2) that directly benefit; the territory of the fire special service district. These amounts are in addition to the amounts levied by the fire special service district to fund pension obligations under IC 36-8-7-14.

(3) (l) Notwithstanding any other provision, a firefighter:

- (A) (1) who is a member of the 1937 fund before the effective date of a consolidation under this section; January 1, 2007; and
- (B) (2) who, after the consolidation of fire departments under subsection (a), becomes an employee of the consolidated fire department of a consolidated city under this section; remains a member of the 1937 fund. The firefighter shall receive credit for any service as a member of the 1937 fund before the consolidation to determine the firefighter's eligibility for benefits under IC 36-8-7.

(4) For property taxes first due and payable in the year in which the consolidation is effective; the maximum permissible ad valorem property tax levy under IC 6-1-1-18.5:

- (A) is increased for the consolidated city by an amount equal to the maximum permissible ad valorem property tax levy in the year preceding the year in which the consolidation is effective for fire protection and related services by the township whose fire department is consolidated into the fire department of the consolidated city under this section; and
- (B) is reduced for the township whose fire department is consolidated into the fire department of the consolidated city under this section by the amount equal to the maximum permissible ad valorem property tax levy in the year preceding the year in which the consolidation is effective for fire protection and related services for the township.

(5) The amount levied in the year preceding the year in which the consolidation is effective by the township whose fire department is consolidated into the fire department of the consolidated city for the township's cumulative building and equipment fund for fire protection and related services is transferred on the effective date of the consolidation to the consolidated city's cumulative building and equipment fund for fire protection and related services; which is hereby established. The consolidated city is exempted from the requirements of IC 36-8-14 and IC 6-1-1-41 regarding establishment of the cumulative building and equipment fund for fire protection and

related services:

(66) (m) The local boards for the 1937 firefighters' pension fund and the 1977 police officers' and firefighters' pension and disability fund of the for a township located in a county having a consolidated city are dissolved, and their services are terminated not later than the effective date of the consolidation. The duties performed by the local boards under IC 36-8-7 and IC 36-8-8, respectively, are assumed by the consolidated city's local board for the 1937 firefighters' pension fund and local board for the 1977 police officers' and firefighters' pension and disability fund, respectively. Notwithstanding any other provision, the legislative body of the consolidated city may adopt an ordinance to adjust the membership of the consolidated city's local board to reflect the consolidation.

(7) The consolidated city may levy property taxes within the consolidated city's maximum permissible ad valorem property tax levy limit to provide for the payment of the expenses for the operation of the consolidated fire department. However, property taxes to fund the pension obligation under IC 36-8-7 for members of the 1937 firefighters fund who were employees of the consolidated city at the time of the consolidation may be levied only by the fire special service district within the fire special service district. The fire special service district established under IC 36-3-1-6 may levy property taxes to provide for the payment of expenses for the operation of the consolidated fire department within the territory of the police special service district. Property taxes to fund the pension obligation under IC 36-8-8 for members of the 1977 police officers' and firefighters pension and disability fund who were members of the fire department of the consolidated city on the effective date of the consolidation may be levied only by the fire special service district within the fire special service district. Property taxes to fund the pension obligation for members of the 1937 firefighters fund who were not members of the fire department of the consolidated city on the effective date of the consolidation and members of the 1977 police officers' and firefighters pension and disability fund who were not members of the fire department of the consolidated city on the effective date of the consolidation may be levied by the consolidated city within the city's maximum permissible ad valorem property tax levy. However, these taxes may be levied only within the fire special service district and any townships that have consolidated fire departments under this section:

(8) The executive of the consolidated city shall provide for an independent evaluation and performance audit, due before March 1 of the year in which the consolidation is effective and for the following two (2) years, to determine:

(A) the amount of any cost savings, operational efficiencies, or improved service levels; and

(B) any tax shifts among taxpayers; that result from the consolidation. The independent evaluation and performance audit must be provided to the legislative council in an electronic format under IC 5-14-6 and to the state budget committee.

(n) For any township that consolidated its fire department with the fire department of the consolidated city before January 1, 2007:

- (1) IC 6-3.5-6-18.5 applies to that consolidation; and
- (2) this section applies to that consolidation to the extent that it does not conflict with any consolidation agreement between the township and the consolidated city.

SECTION 129. IC 36-3-1-6.2, AS ADDED BY P.L.227-2005, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6.2. (a) If a consolidated fire department is established under section 6.1 of this chapter, After December 31, 2006, the consolidated city, through the consolidated fire department, shall after the consolidation establish, operate, and maintain emergency ambulance services (as defined in IC 16-18-2-107) in the fire special service district and in those townships in the county that are consolidated under section 6.1 of this chapter:

(b) This section does not prohibit the providing of emergency ambulance services under an interlocal agreement under IC 36-1-7.

SECTION 130. IC 36-3-1-6.3 IS ADDED TO THE INDIANA

CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6.3. (a) The consolidated fire department may not provide fire protection services for:

(1) an excluded city; or

(2) a fire protection territory for which an excluded city is a provider unit (as defined in IC 36-8-19-3);

unless the fire protection services are provided under an interlocal agreement under IC 36-1-7 or the conditions in subsection (b) are met.

(b) For the consolidated fire department to provide fire protection services to an excluded city other than under an interlocal agreement under IC 36-1-7, all the following must occur:

(1) The legislative body of the excluded city and the city-county legislative body must adopt substantially similar ordinances authorizing the consolidation of the fire department of the excluded city into the consolidated fire department.

(2) The ordinances described in subdivision (1) must:

(A) specify the effective date of the consolidation; and

(B) set forth the conditions of the consolidation.

(c) After the effective date of the consolidation described in subsection (b), the consolidated fire department shall provide fire protection services within the territory of the excluded city.

(d) After the effective date of the consolidation described in subsection (b), all the property, equipment, records, rights, and contracts of the fire department of the excluded city are transferred to and assumed by the consolidated city.

(e) After the effective date of the consolidation described in subsection (b), the employees of the fire department of the excluded city cease employment with the excluded city and become employees of the consolidated fire department. These employees are not hired or rehired for purposes of IC 36-8-3.2 or IC 36-8-10.5 upon becoming employees of the consolidated fire department. The consolidated city shall assume all agreements with labor organizations that:

(1) are in effect after the effective date of the consolidation described in subsection (b); and

(2) apply to employees of the fire department of the excluded city who become employees of the consolidated fire department.

(f) Except as provided in subsection (h), the consolidated city shall assume, defease, pay, or refund all indebtedness related to fire protection services incurred before the effective date of the consolidation described in subsection (b) by:

(1) an excluded city; or

(2) a building, holding, or leasing corporation on behalf of an excluded city;

whose fire department is consolidated into the consolidated fire department under subsection (b).

(g) Notwithstanding any other law, to assume, defease, pay, or refund all or a part of the indebtedness described in subsection (f) the consolidated city is not required to comply with any other statutory procedures or approvals that apply when a unit incurs indebtedness.

(h) Notwithstanding subsections (f) and (g), the consolidated city may not assume all or a part of the indebtedness described in subsection (f) that will exceed the limitations on the amount of indebtedness that the consolidated city may incur.

(i) The rights of the trustee and the bondholders with respect to any:

(1) indebtedness or bonds; or

(2) bond resolution, trust agreement or indenture, security agreement, purchase agreement, or other undertaking described in subsection (f);

remain the same, although the powers, duties, agreements, and liabilities of the departments listed in subsection (a) have been transferred to the consolidated city, and the consolidated city shall be considered to have assumed all those powers, duties, agreements, and liabilities.

(j) Whenever an excluded city consolidates its fire department into the consolidated fire department under subsection (b), the local boards for the 1937 firefighters' pension fund and the 1977 police officers' and firefighters' pension and disability fund of the

excluded city are dissolved, and their services are terminated not later than the effective date of the consolidation. The duties performed by the local boards under IC 36-8-7 and IC 36-8-8, respectively, are assumed by the consolidated city's local board for the 1937 firefighters' pension fund and local board for the 1977 police officers' and firefighters' pension and disability fund, respectively.

(k) Whenever an excluded city consolidates its fire department into the consolidated fire department under subsection (b), the merit board and merit system of the excluded city's fire department are dissolved, and the duties of the excluded city's merit board are transferred to and assumed by the merit board for the consolidated fire department.

(l) Whenever an excluded city consolidates its fire department into the consolidated fire department under subsection (b), for property taxes first due and payable in the calendar year following the effective date of the consolidation, the maximum permissible ad valorem property tax levy under IC 6-1.1-18.5:

- (1) is increased for a consolidated city by the amount levied in the prior calendar year for fire protection and related services by the excluded city; and
- (2) is reduced for the excluded city by the amount levied in the prior calendar year for fire protection and related services by the excluded city.

(m) Whenever an excluded city consolidates its fire department into the consolidated fire department under subsection (b), for property taxes first due and payable in the calendar year following the effective date of the consolidation, the amount levied under IC 6-1.1-41 and IC 36-8-14 in the prior calendar year by the excluded city for its cumulative building and equipment fund for firefighting and related services is transferred to the consolidated city's cumulative building and equipment fund for firefighting and related services, and the consolidated city is exempted from the requirements of IC 6-1.1-41 and IC 36-8-14 regarding an increase to the levy for its cumulative building and equipment fund for firefighting and related services.

(n) Whenever an excluded city consolidates its fire department into the consolidated fire department under subsection (b), commencing with the calendar year following consolidation and for each year thereafter, the excluded city's monthly distributive share of county option income tax revenues distributed under IC 6-3.5-6-18.5 shall be reduced by a percentage set forth in the ordinances adopted under subsection (b), and those revenues shall instead be distributed as additional distributive shares to Indianapolis/Marion County.

SECTION 131. IC 36-3-2-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 10. (a) The general assembly finds the following:

- (1) That the tax base of the consolidated city and the county have been significantly eroded through the ownership of tangible property by separate municipal corporations and other public entities that operate as private enterprises yet are exempt or whose property is exempt from property taxation.
- (2) That to restore this tax base and provide a proper allocation of the cost of providing governmental services the legislative body of the consolidated city and county should be authorized to collect payments in lieu of taxes from these public entities.
- (3) That the appropriate maximum payments in lieu of taxes would be the amount of the property taxes that would be paid if the tangible property were not subject to an exemption.

(b) As used in this section, the following terms have the meanings set forth in IC 6-1.1-1:

- (1) Assessed value.
- (2) Exemption.
- (3) Owner.
- (4) Person.
- (5) Personal property.
- (6) Property taxation.
- (7) Tangible property.
- ~~(8) Township assessor.~~

(c) As used in this section, "PILOTS" means payments in lieu of taxes.

(d) As used in this section, "public entity" means any of the following government entities in the county:

- (1) An airport authority operating under IC 8-22-3.
- (2) A capital improvement board of managers under IC 36-10-9.
- (3) A building authority operating under IC 36-9-13.
- (4) A wastewater treatment facility.

(e) The legislative body of the consolidated city may adopt an ordinance to require a public entity to pay PILOTS at times set forth in the ordinance with respect to:

- (1) tangible property of which the public entity is the owner or the lessee and that is subject to an exemption;
- (2) tangible property of which the owner is a person other than a public entity and that is subject to an exemption under IC 8-22-3; or
- (3) both.

The ordinance remains in full force and effect until repealed or modified by the legislative body.

(f) The PILOTS must be calculated so that the PILOTS may be in any amount that does not exceed the amount of property taxes that would have been levied by the legislative body for the consolidated city and county upon the tangible property described in subsection (e) if the property were not subject to an exemption from property taxation.

(g) PILOTS shall be imposed as are property taxes and shall be based on the assessed value of the tangible property described in subsection (e). The ~~township assessors~~ **county assessor** shall assess the tangible property described in subsection (e) as though the property were not subject to an exemption. The public entity shall report the value of personal property in a manner consistent with IC 6-1.1-3.

(h) Notwithstanding any law to the contrary, a public entity is authorized to pay PILOTS imposed under this section from any legally available source of revenues. The public entity may consider these payments to be operating expenses for all purposes.

(i) PILOTS shall be deposited in the consolidated county fund and used for any purpose for which the consolidated county fund may be used.

(j) PILOTS shall be due as set forth in the ordinance and bear interest, if unpaid, as in the case of other taxes on property. PILOTS shall be treated in the same manner as taxes for purposes of all procedural and substantive provisions of law.

(k) PILOTS imposed on a wastewater treatment facility may be paid only from the cash earnings of the facility remaining after provisions have been made to pay for current obligations, including:

- (1) operating and maintenance expenses;
- (2) payment of principal and interest on any bonded indebtedness;
- (3) depreciation or replacement fund expenses;
- (4) bond and interest sinking fund expenses; and
- (5) any other priority fund requirements required by law or by any bond ordinance, resolution, indenture, contract, or similar instrument binding on the facility.

SECTION 132. IC 36-3-2-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 11. (a) As used in this section, the following terms have the meanings set forth in IC 6-1.1-1:

- (1) Assessed value.
- (2) Exemption.
- (3) Owner.
- (4) Person.
- (5) Property taxation.
- (6) Real property.
- ~~(7) Township assessor.~~

(b) As used in this section, "PILOTS" means payments in lieu of taxes.

(c) As used in this section, "property owner" means the owner of real property described in IC 6-1.1-10-16.7 that is located in a county with a consolidated city.

(d) Subject to the approval of a property owner, the legislative body of the consolidated city may adopt an ordinance to require the property owner to pay PILOTS at times set forth in the ordinance with respect to real property that is subject to an exemption under IC 6-1.1-10-16.7. The ordinance remains in full force and effect until

repealed or modified by the legislative body, subject to the approval of the property owner.

(e) The PILOTS must be calculated so that the PILOTS are in an amount that is:

- (1) agreed upon by the property owner and the legislative body of the consolidated city;
- (2) a percentage of the property taxes that would have been levied by the legislative body for the consolidated city and the county upon the real property described in subsection (d) if the property were not subject to an exemption from property taxation; and
- (3) not more than the amount of property taxes that would have been levied by the legislative body for the consolidated city and county upon the real property described in subsection (d) if the property were not subject to an exemption from property taxation.

(f) PILOTS shall be imposed as are property taxes and shall be based on the assessed value of the real property described in subsection (d). The ~~township assessors~~ **county assessor** shall assess the real property described in subsection (d) as though the property were not subject to an exemption.

(g) PILOTS collected under this section shall be deposited in the housing trust fund established under IC 36-7-15.1-35.5 and used for any purpose for which the housing trust fund may be used.

(h) PILOTS shall be due as set forth in the ordinance and bear interest, if unpaid, as in the case of other taxes on property. PILOTS shall be treated in the same manner as taxes for purposes of all procedural and substantive provisions of law.

SECTION 133. IC 36-3-4-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 14. (a) An ordinance or resolution passed by a legislative body is considered adopted when it is:

- (1) signed by the presiding officer; and
- (2) if subject to veto, either approved by the executive or passed over ~~his~~ **the executive's** veto by the legislative body, under section 16 of this chapter.

(b) All ordinances and resolutions of a legislative body are subject to veto, except the following:

~~(1) An ordinance or resolution, or part of either, providing for the budget or appropriating money for an office or officer of the county provided for by the Constitution of Indiana or for a judicial office or officer.~~

~~(2) (1)~~ An ordinance or resolution approving or modifying the budget of a political subdivision that the legislative body is permitted by statute to review.

~~(3) (2)~~ A resolution making an appointment that the legislative body is authorized to make.

~~(4) (3)~~ A resolution selecting officers or employees of the legislative body.

~~(5) (4)~~ A resolution prescribing rules for the internal management of the legislative body.

~~(6) (5)~~ A zoning ordinance or amendment to a zoning ordinance, or a resolution approving a comprehensive plan, that is adopted under IC 36-7.

(c) An ordinance prescribing a penalty or forfeiture for a violation must, before it takes effect, be published in the manner prescribed by IC 5-3-1, unless:

- (1) it is published under subsection (d); or
- (2) there is an urgent necessity requiring its immediate effectiveness, the executive proclaims the urgent necessity, and copies of the ordinance are posted in three (3) public places in the county.

(d) If a legislative body publishes any of its ordinances in book or pamphlet form, no other publication is required. If an ordinance prescribing a penalty or forfeiture for a violation is published under this subsection, it takes effect two (2) weeks after the publication of the book or pamphlet. Publication under this subsection, if authorized by the legislative body, constitutes presumptive evidence:

- (1) of the ordinances in the book or pamphlet;
- (2) of the date of adoption of the ordinances; and
- (3) that the ordinances have been properly signed, attested, recorded, and approved.

(e) Unless a legislative body provides in an ordinance or resolution

for a later effective date, the ordinance or resolution takes effect when it is adopted, subject to subsections (c) and (d).

(f) Subsections (a), (c), (d), and (e) do not apply to zoning ordinances or amendments to zoning ordinances, or resolutions approving comprehensive plans, that are adopted under IC 36-7.

SECTION 134. IC 36-3-6-4, AS AMENDED BY P.L.227-2005, SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 4. (a) Before the Wednesday after the first Monday in July each year, the consolidated city and county shall prepare budget estimates for the ensuing budget year under this section.

(b) The following officers shall prepare for their respective departments, offices, agencies, or courts an estimate of the amount of money required for the ensuing budget year, stating in detail each category and item of expenditure they anticipate:

- (1) The director of each department of the consolidated city.
- (2) Each ~~township assessor~~, elected county officer or head of a county agency.
- (3) The county clerk, for each court ~~of which he is the clerk serves~~.

(c) In addition to the estimates required by subsection (b), the county clerk shall prepare an estimate of the amount of money that is, under law, taxable against the county for the expenses of cases tried in other counties on changes of venue.

(d) Each officer listed in subsection (b)(2) or (b)(3) shall append a certificate to each estimate the officer prepares stating that in the officer's opinion the amount fixed in each item will be required for the purpose indicated. The certificate must be verified by the oath of the officer.

(e) An estimate for a court or division of a court is subject to modification and approval by the judge of the court or division.

(f) All of the estimates prepared by city officers and county officers shall be submitted to the controller.

(g) The controller shall also prepare an itemized estimate of city and county expenditures for other purposes above the money proposed to be used by the city departments and county officers and agencies.

SECTION 135. IC 36-3-6-4.1 IS ADDED TO INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 4.1. **Notwithstanding IC 36-8-7, the city-county legislative body shall adopt an ordinance under section 7 of this chapter to levy a tax only within the fire special service district in the amount and at the rate necessary to produce sufficient revenue to pay the amounts required to satisfy the consolidated city's 1937 firefighters' pension fund obligations under IC 36-8-7-14.**

SECTION 136. IC 36-3-7-6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 6. (a) **Notwithstanding any other law, the consolidated city may issue obligations to refund obligations issued before January 1, 2007, in the name of:**

- (1) a township;
- (2) an airport authority;
- (3) a fire protection territory; or
- (4) a building, holding, or leasing corporation on behalf of a township, an airport authority, or a fire protection territory;

to satisfy the requirements of IC 36-3-1-6.1(e), IC 36-3-1-6.1(f), and IC 36-3-1-6.1(g).

(b) Notwithstanding any other law, the consolidated city may issue obligations to refund obligations issued before the effective date of a consolidation described in IC 36-3-1-6.3(b) by:

- (1) an excluded city; or
- (2) a building, holding, or leasing corporation on behalf of an excluded city;

to satisfy the requirements of IC 36-3-1-6.3(f), IC 36-3-1-6.3(g), and IC 36-3-1-6.3(h).

SECTION 137. IC 36-6-1.1 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 1.1. Marion County Township Transitional Provisions
Sec. 1. This chapter applies only to townships in a county having a consolidated city.

Sec. 2. (a) After December 31, 2007, all powers and duties of a township trustee elected at the 2006 general election shall be terminated, except for the trustee's powers and duties regarding township assistance. The trustee shall comply with IC 36-6-4 for the limited purpose of performing the trustee's duties with regard to township assistance.

(b) After December 31, 2007, all powers and duties of a township legislative body elected at the 2004 general election shall be terminated, except for the township legislative body's powers and duties regarding township assistance. The township legislative body shall comply with IC 36-6-6 for the limited purpose of performing the township legislative body's duties with regard to township assistance.

(c) After December 31, 2008:

- (1) township trustees are governed by IC 36-6-4.1; and
- (2) township boards are governed by IC 36-6-6.1.

(d) Beginning with the general election held in 2008:

- (1) new township trustees for the township districts shall be elected under IC 36-6-4.1; and
- (2) new township boards for the township districts shall be elected under IC 36-6-6.1.

(e) On January 1, 2009:

- (1) the township boards existing at the time the new township boards are elected under IC 36-6-6.1 are dissolved; and
- (2) the township boards elected under IC 36-6-6.1 replace the township boards that are dissolved under subdivision (1).

Sec. 3. (a) A transitional advisory board shall be formed not later than July 1, 2006, to prepare a report and recommendations to the township trustees and township boards regarding the reorganization of townships, including the following:

- (1) The transfer of residual township functions to appropriate departments or officers of the consolidated city or county.
- (2) The provision of township assistance under IC 12-20 and IC 12-30-4.
- (3) The transfer of township assessment functions from the township assessors to the county assessor.
- (4) The location of township divisions of the small claims division of the superior court of the county.

(b) The transitional advisory board consists of the following twenty-one (21) members:

- (1) The nine (9) township trustees in the county holding office on the date the transitional advisory board is formed.
- (2) Four (4) individuals appointed by the city executive. One (1) individual appointed under this subdivision must be an assessing professional.
- (3) Four (4) individuals appointed by the city-county legislative body.
- (4) Four (4) individuals appointed by the board of commissioners of the county.

(c) Members of the transitional advisory board appointed under subsection (b)(2), (b)(3), and (b)(4) are not entitled to receive any salary for their service. Members of the board designated under subsection (b)(1) are not entitled to any additional salary for their service on the board but are entitled to their regular salaries as township trustees under IC 36-6-8 until the end of their current terms. The board may use the staff and budget of the existing trustees to carry out the board's work. Two (2) cochairpersons, each of a different political party, shall be elected by the members of the board.

(d) The transitional advisory board expires not later than February 28, 2008.

Sec. 4. All assets, property rights, equipment, records, personnel, and contracts and all else connected with the provision of township assistance under IC 12-20 and IC 12-30-4 by a township shall be transferred to the applicable township district on January 1, 2009. All other assets, property rights, equipment, records, personnel (except as otherwise provided by statute), and contracts and all else connected with the township shall be transferred to the consolidated city on January 1, 2009. Any indebtedness not connected with the provision of township assistance that was incurred by a township before the effective

date of consolidation under this section shall be assumed or defeased by the consolidated city, notwithstanding any other provision of law requiring completion of certain procedures and approvals for the incurrence of indebtedness. However, the indebtedness (or any part of the indebtedness) may not be assumed by the consolidated city if the assumption would cause the consolidated city to exceed any limitation on the amount of indebtedness that may be incurred by the consolidated city.

Sec. 5. Beginning January 1, 2009, notwithstanding any other law to the contrary, for a township located in a county having a consolidated city, the township's distributive share of any state or local taxes or revenues (other than county option income taxes distributed under IC 6-3.5-6-18.5 and property taxes) shall be reduced to zero (0) and shall be transferred to the consolidated city.

SECTION 138. IC 36-6-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 1. This chapter applies to all townships **except a township in a county having a consolidated city.**

SECTION 139. IC 36-6-4-2, AS AMENDED BY P.L.88-2005, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) **Except as provided in subsection (d),** a township trustee shall be elected under IC 3-10-2-13 by the voters of each township. The trustee is the township executive.

(b) The township trustee must reside within the township as provided in Article 6, Section 6 of the Constitution of the State of Indiana. The trustee forfeits office if the trustee ceases to be a resident of the township.

(c) **Except as provided in subsection (d),** the term of office of a township trustee is four (4) years, beginning January 1 after election and continuing until a successor is elected and qualified.

(d) **This subsection applies to a township in a county having a consolidated city. At the 2006 general election, a township trustee shall be elected under IC 3-10-2-13 by the voters of each township. The term of office of a township trustee elected at the 2006 general election is two (2) years, beginning January 1 after the election.**

SECTION 140. IC 36-6-4-3, AS AMENDED BY P.L.73-2005, SECTION 173, AND AS AMENDED BY P.L.227-2005, SECTION 36, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 3. The executive shall do the following:

- (1) Keep a written record of official proceedings.
- (2) Manage all township property interests.
- (3) Keep township records open for public inspection.
- (4) Attend all meetings of the township legislative body.
- (5) Receive and pay out township funds.
- (6) Examine and settle all accounts and demands chargeable against the township.
- (7) Administer *poor relief* township assistance under IC 12-20 and IC 12-30-4.
- (8) Perform the duties of fence viewer under IC 32-26.
- (9) Act as township assessor when required by IC 36-6-5.
- (10) Provide and maintain cemeteries under IC 23-14.
- (11) Provide fire protection under IC 36-8 *except in a township that:*
 - (A) *is located in a county having a consolidated city; and*
 - (B) *consolidated the township's fire department under IC 36-3-1-6.1.*
- (12) File an annual personnel report under IC 5-11-13.
- (13) Provide and maintain township parks and community centers under IC 36-10.
- (14) Destroy detrimental plants, noxious weeds, and rank vegetation under IC 15-3-4.
- (15) Provide insulin to the poor under IC 12-20-16.
- (16) Perform other duties prescribed by statute.

SECTION 141. IC 36-6-4.1 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]:

Chapter 4.1. Township Executives in Marion County

Sec. 1. Subject to IC 36-6-1.1, this chapter applies only to a county having a consolidated city.

Sec. 2. As used in this chapter, "central township district" means the geographic area that is coterminous with the territory of the board of school commissioners under IC 20-25-3-1 and IC 20-25-3-2.

Sec. 3. As used in this chapter, "consolidated township district" means the territory of a county having a consolidated city, excluding the central township district.

Sec. 4. As used in this chapter, "executive" refers to the township trustee of a township district elected under section 7 of this chapter.

Sec. 5. As used in this chapter, "township district" means the:

- (1) central township district; and
- (2) consolidated township district.

Sec. 6. As used in this chapter, "township district legislative body" refers to a township board created under IC 36-6-6.1.

Sec. 7. (a) Beginning with the general election held in 2008, a township trustee shall be elected under IC 3-10-2-13 by the voters of each township district. The township trustee elected for each township district is the executive for each township in the township district.

(b) The executive must reside within the township district as provided in Article 6, Section 6 of the Constitution of the State of Indiana. The executive forfeits office if the executive ceases to be a resident of the township district.

(c) The term of office of the executive is four (4) years, beginning January 1 after the executive's election and continuing until a successor is elected and qualified.

Sec. 8. The executive shall do the following:

- (1) Keep a written record of official proceedings.
- (2) Manage all property interests in the township district.
- (3) Keep records of the township district open for public inspection.
- (4) Attend all meetings of the township district legislative body.
- (5) Receive and pay out funds of the township district.
- (6) Examine and settle all accounts and demands chargeable against the township district.
- (7) Provide the assistance required under IC 12-20 and IC 12-30-4.
- (8) File an annual personnel report under IC 5-11-13.

Sec. 9. The executive may do the following:

- (1) Administer oaths when necessary in the discharge of official duties.
- (2) Appoint an attorney to represent the township district in any proceeding in which the township district is interested.
- (3) Enter into certain oil and gas leases of township district property under IC 36-9.
- (4) Personally use a township district vehicle for the performance of official duties, but only if the use is authorized by the township district legislative body.
- (5) Exercise other powers granted by statute.

Sec. 10. The executive shall maintain:

- (1) a general account showing the total of all township district receipts and expenditures; and
- (2) the financial and appropriation record of the township district, which must include an itemized and accurate account of the township district's financial affairs.

Sec. 11. (a) For each sum of money received by the executive, the financial and appropriation record must show:

- (1) the date the sum of money was received;
- (2) from whom the sum of money was received; and
- (3) to what account the sum of money was credited.

(b) For each sum of money paid by the executive, the financial and appropriation record must show:

- (1) the date the sum of money was paid;
- (2) to whom the sum of money was paid;
- (3) from what account the sum of money was paid; and
- (4) why the sum of money was paid.

(c) The state board of accounts shall prescribe the form of the financial and appropriation record.

Sec. 12. (a) Each purchase for a township district by the executive must be made on written order of the executive, certifying that sufficient funds have been appropriated to pay the full price of the purchase. The executive shall issue a warrant and

pay for the purchase not later than time of receipt of the county treasurer's first semiannual distribution following the purchase.

(b) An executive who violates this section commits a Class C infraction and is liable on the executive's official bond for the value of the purchase.

Sec. 13. (a) The executive may use the township district's share of state, county, and township district tax revenues and federal revenue sharing funds for all categories of community service, if these funds are appropriated for these services by the township district legislative body. The executive may use these funds for both operating and capital expenditures.

(b) With the consent of the township district legislative body, the executive may contract with corporations for health and community services not specifically provided by another governmental entity.

Sec. 14. On the first Monday of each August the executive shall post, in a conspicuous place near the executive's office, a verified statement showing the indebtedness of the township district in detail and giving the number and total amount of outstanding orders, warrants, and accounts.

Sec. 15. (a) At the township district legislative body's annual meeting under IC 36-6-6.1-12, the executive shall:

(1) present an itemized written statement of the estimated expenditures for which appropriations are requested, specifying the:

- (A) number of teachers employed;
- (B) salary of each teacher employed;
- (C) property of the township district (and supplies on hand);
- (D) estimated value of the property of the township district (and supplies on hand);
- (E) supplies necessary for each school; and
- (F) need for township assistance in the township district; and

(2) submit to questions from the township district legislative body or taxpayers concerning expenditures of the township district.

(b) The written statement required under subsection (a)(1) must comply with forms prescribed by the state board of accounts and show the amount of each item to be charged against funds of the township district.

Sec. 16. (a) At the annual meeting of the township district legislative body under IC 36-6-6.1-10, the executive shall present a complete report of all receipts and expenditures of the preceding calendar year, including the balance to the credit of each fund controlled by the executive. If the executive controls any money that is not included in a particular fund, the executive shall state all the facts concerning that money in the report.

(b) Each item of expenditure in the report presented under subsection (a) must be accompanied by the verified voucher of the person to whom the sum was paid, stating:

- (1) why the payment was made;
- (2) that the receipt is for the exact sum received;
- (3) that no part of the sum has been retained by the executive; and
- (4) that no part of the sum has been or is to be returned to the executive or any other person.

The executive may administer oaths to persons giving these receipts.

(c) The executive shall swear or affirm that:

- (1) the report presented under subsection (a) shows all sums received by the executive;
- (2) the expenditures credited have been fully paid in the sums stated, without express or implied agreement that any part of the sums is to be retained by or returned to the executive or any other person; and
- (3) the executive has received no money or other property in consideration of any contract entered into or expenditure made on behalf of the township district.

(d) Within ten (10) days after the township district legislative body's action under IC 36-6-6.1-10, the executive shall file a copy of the report presented under subsection (a) and the report's accompanying vouchers, as adopted by the township district legislative body, in the office of the controller of the consolidated

city. The township district legislative body may, for the benefit of the township, bring a civil action against the executive if the executive fails to file the report within ten (10) days after the township district legislative body's action. The township district legislative body may recover five dollars (\$5) for each day after the time limit for filing the report, until the report is filed.

Sec. 17. (a) When the executive prepares the annual report required by section 16 of this chapter, the executive shall also prepare, on forms prescribed by the state board of accounts, an abstract of receipts and expenditures:

- (1) showing the sum of money in each fund of the township district at the beginning of the year;
- (2) showing the sum of money received in each fund of the township district during the year;
- (3) showing the sum of money paid from each fund of the township district during the year;
- (4) showing the sum of money remaining in each fund of the township district at the end of the year;
- (5) containing a statement of receipts, showing their source; and
- (6) containing a statement of expenditures showing the combined gross payment, according to classification of expense, to each person.

(b) Not later than four (4) weeks after the annual meeting of the township district legislative body under IC 36-6-6.1-10, the executive shall publish the abstract required by subsection (a) in accordance with IC 5-3-1. The abstract must state that a complete and detailed annual report and the accompanying vouchers showing the names of persons paid money by the township district have been filed with the controller of the consolidated city, and that the chairperson of the township district legislative body has a copy of the report that is available for inspection by any taxpayer of the township district.

(c) An executive who fails to comply with this section commits a Class C infraction.

Sec. 18. When an executive's term of office expires, the executive shall:

- (1) immediately deliver to the new executive custody of all funds and property of the township district, except records necessary in the preparation of the former executive's annual report under section 16 of this chapter;
- (2) deliver to the new executive, not later than the second Monday in the next January, the former executive's annual report and any records the former executive has retained; and
- (3) attend the annual meeting of the township district legislative body held under IC 36-6-6.1-10 and submit to inquiries from the township district legislative body concerning the operation of the executive's office during the preceding calendar year.

Sec. 19. (a) If an executive resigns or dies, the executive's personal representative shall immediately deliver to the new executive custody of all funds and property of the township district. The new executive shall then issue a call for a special meeting of the township district legislative body, to be held not more than fifteen (15) days later. At the special meeting the township district legislative body shall:

- (1) examine the records of the township district;
- (2) inquire into the conduct of the executive's office; and
- (3) approve in whole or in part the records, receipts, and expenditures of the township district to the date of the death or resignation of the former executive.

(b) In the new executive's annual report to the township district legislative body required under section 16 of this chapter, the new executive shall distinguish between the new executive's transactions and those of the former executive. The township district legislative body may, at its annual meeting under IC 36-6-6.1-10, review items in the report that were considered at the special meeting.

Sec. 20. An executive is entitled to receive the following:

- (1) The executive's salary.
- (2) Reimbursement for expenses that are reasonably incurred by the executive for the following:
 - (A) The operation of the executive's office.

(B) Travel and meals while attending seminars or conferences on township district matters.

(C) A sum for mileage as permitted under IC 36-6-8-3(b).

The executive may not make any other personal use of funds of the township district without prior approval by the township district legislative body.

Sec. 21. (a) Not later than thirty (30) days after taking office, the executive shall designate a person who shall perform the executive's duties whenever the executive is incapable of performing the executive's functions because the executive:

- (1) is absent from the township district; or
- (2) becomes incapacitated.

The executive shall give notice of the designation to the chairperson of the township district legislative body, the county sheriff, the city controller, and any other persons that the executive chooses. The designee has all the powers of the executive. The executive is responsible for all acts of the designee. The executive may change the designee under this section at any time.

(b) The designee shall perform the executive's duties until the executive is no longer absent from the township district or incapacitated.

Sec. 22. The executive may pay township district funds for the purpose of supporting a drug awareness program that is implemented in schools.

SECTION 142. IC 36-6-5-1, AS AMENDED BY P.L.240-2005, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 1. (a) **Except as provided in subsection (e) and section 3 of this chapter**, a township assessor shall be elected under IC 3-10-2-13 by the voters of each township having:

- (1) a population of more than eight thousand (8,000); or
- (2) an elected township assessor or the authority to elect a township assessor before January 1, 1979.

(b) A township assessor shall be elected under IC 3-10-2-14 in each township having a population of more than five thousand (5,000) but not more than eight thousand (8,000), if the legislative body of the township:

- (1) by resolution, declares that the office of township assessor is necessary; and
- (2) the resolution is filed with the county election board not later than the first date that a declaration of candidacy may be filed under IC 3-8-2.

(c) A township government that is created by merger under IC 36-6-1.5 shall elect only one (1) township assessor under this section.

(d) The township assessor must reside within the township as provided in Article 6, Section 6 of the Constitution of the State of Indiana. The assessor forfeits office if the assessor ceases to be a resident of the township.

(e) The term of office of a township assessor is the following:

(1) **This subdivision applies to a township assessor of a township having a consolidated city. The term of a township assessor who is elected in the 2006 general election is two (2) years beginning January 1 after election.**

(2) **This subdivision applies to a township assessor of a township not having a consolidated city. The term of a township assessor is four (4) years, beginning January 1 after election and continuing until a successor is elected and qualified. However, the term of office of a township assessor elected at a general election in which no other township officer is elected ends on December 31 after the next election in which any other township officer is elected.**

SECTION 143. IC 36-6-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 2. (a) This section applies to ~~townships~~ **a township, other than a township located in a county having a consolidated city, that does not** have an elected or appointed and qualified township assessor.

(b) The township executive shall perform all the duties and has all the rights and powers of assessor. If a township qualifies under IC 36-6-5-1 to elect a township assessor, the executive shall continue to serve as assessor until an assessor is appointed or elected and qualified.

(c) The bond filed by the executive in ~~his~~ **the executive's** capacity as executive also covers ~~his~~ **the executive's** duties as assessor.

SECTION 144. IC 36-6-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 3. **(a) Except as provided in subsection (b),** the assessor shall perform the duties prescribed by statute, including:

- (1) assessment duties prescribed by IC 6-1.1; and
- (2) administration of the dog tax and dog fund, as prescribed by IC 15-5-9.

(b) In a township located in a county having a consolidated city:

- (1) there is no township assessor beginning January 1, 2008;**
- (2) beginning January 1, 2007, the duties of the township assessor prescribed by IC 6-1.1 are performed by the county assessor under IC 36-2-15-5;**
- (3) beginning January 1, 2007, the duties of the township assessor prescribed by IC 15-5-9 are performed by the controller of the consolidated city or the controller's designee; and**
- (4) beginning January 1, 2007, township assessors shall perform the duties prescribed by ordinance of the legislative body of the consolidated city.**

SECTION 145. IC 36-6-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 1. This chapter applies to all townships **except a township in a county having a consolidated city.**

SECTION 146. IC 36-6-6-2, AS AMENDED BY P.L.240-2005, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 2. (a) Except as provided in subsection ~~(b)~~ and section 2.1 of this chapter, a three (3) member township board shall be elected under IC 3-10-2-13 by the voters of each township.

~~(b) The township board in a county containing a consolidated city shall consist of seven (7) members elected under IC 3-10-2-13 by the voters of each township.~~

~~(c) (b)~~ The township board is the township legislative body.

~~(d) (c)~~ The term of office of a township board member is four (4) years, beginning January 1 after election and continuing until a successor is elected and qualified.

SECTION 147.. IC 36-6-6-2.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 2.2. ~~(a) This subsection applies to townships in a county containing a consolidated city. The voters of each legislative body district established under section 2.5 of this chapter shall elect one (1) member of the township board.~~

~~(b) This subsection applies to townships not included in subsection (a). The voters of each township shall elect all the members of the township board.~~

SECTION 148. IC 36-6-6-3, AS AMENDED BY P.L.240-2005, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 3. ~~(a) This subsection applies to townships in a county containing a consolidated city. One (1) member of the legislative body must reside within each legislative body district. If a member of the legislative body ceases to be a resident of the district from which the member was elected, the office becomes vacant.~~

~~(b) (a)~~ This subsection applies to townships not included in subsection ~~(a)~~ ~~or (c)~~. **(b).** A member of the legislative body must reside within the township as provided in Article 6, Section 6 of the Constitution of the State of Indiana. If a member of the legislative body ceases to be a resident of the township, the office becomes vacant.

~~(c) (b)~~ This subsection applies to a township government that:

- (1) is created by a merger of township governments under IC 36-6-1.5; and
- (2) elects a township board under section 2.1 of this chapter.

One (1) member of the legislative body must reside within the boundaries of each of the former townships that merged. If a member of the legislative body ceases to be a resident of that former township, the office becomes vacant.

SECTION 149. IC 36-6-6-4, AS AMENDED BY P.L.240-2005, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 4. (a) Except as provided in

~~subsections subsection (b), and (c);~~ two (2) members of the legislative body constitute a quorum.

~~(b) Four (4) members of the legislative body in a county containing a consolidated city constitute a quorum.~~

~~(c) (b)~~ This subsection applies to a township government that:

- (1) is created by a merger of township governments under IC 36-6-1.5; and
- (2) elects a township board under section 2.1 of this chapter.

A majority of the members of the legislative body constitute a quorum. If a township board has an even number of members, the township executive shall serve as an ex officio member of the township board for the purpose of casting the deciding vote to break a tie.

SECTION 150. IC 36-6-6.1 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]:

Chapter 6.1. Township Legislative Bodies in Marion County

Sec. 1. Subject to IC 36-6-1.1, this chapter applies only in a county having a consolidated city.

Sec. 2. The definitions in IC 36-6-4.1 apply to this chapter.

Sec. 3. (a) The township board shall serve as the township district legislative body.

(b) The township board for the:

- (1)** central township district consists of seven (7) at-large members; and
- (2)** consolidated township district consists of nine (9) at-large members.

(c) Beginning with the general election held in 2008, all members of the township boards shall be elected under IC 3-10-2-13 by the voters of each township district.

(d) The term of office of a township board member is four (4) years, beginning January 1 after election and continuing until a successor is elected and qualified.

Sec. 4. A member of the legislative body must reside within the township district. If a member of the legislative body ceases to be a resident of the township district from which the member was elected, the office becomes vacant.

Sec. 5. (a) Four (4) members of the legislative body for the central township district constitute a quorum.

(b) Five (5) members of the legislative body for the consolidated township district constitute a quorum.

Sec. 6. The legislative body may adjourn a meeting from day to day until the business of the legislative body is completed.

Sec. 7. A taxpayer of the township district may appear at any meeting of the legislative body and be heard as to:

- (1)** an estimate of expenditures;
- (2)** a proposed levy of taxes;
- (3)** the approval of the executive's annual report; or
- (4)** any other matter being considered by the legislative body.

Sec. 8. (a) The legislative body shall meet at the office of the executive on the first Tuesday after the first Monday in January of each year. At this meeting the legislative body shall elect one (1) member as chairperson and one (1) member as secretary for that year.

(b) If a newly elected legislative body holds a special meeting before the first Tuesday after the first Monday in the January following its election, the legislative body shall elect a chairperson and a secretary before conducting any other business. The chairperson and secretary elected at the special meeting retain those positions until the first Tuesday after the first Monday in January of the year following the special meeting.

Sec. 9. The legislative body shall keep a permanent record of its proceedings in a book furnished by the executive. The secretary of the legislative body shall, under the direction of the legislative body, record the minutes of the proceedings of each meeting in full and shall provide copies of the minutes to each member of the legislative body before the next meeting is convened. After the minutes are approved by the legislative body, the secretary of the legislative body shall place the minutes in the permanent record book. The chairperson of the legislative body shall retain the record in the chairperson's custody.

Sec. 10. (a) The legislative body shall meet on or before the third Tuesday after the first Monday in January of each year. At

this meeting the legislative body shall consider and approve, in whole or in part, the annual report of the executive presented under IC 36-6-4.1-15.

(b) The legislative body may send for persons, books, and papers necessary in the examination of the annual report. A member may administer oaths necessary in the examination of the annual report.

(c) Any sum in the control of the executive that remains unexpended and is subject to no liability shall be credited in favor of the fund for which it was appropriated.

(d) Any fund expended, in whole or in part, for a purpose for which it was not appropriated shall be considered unexpended and in the control of the executive, who is liable on the executive's bond for such an expenditure.

(e) When the legislative body completes its examination of the annual report, the legislative body shall take action on the annual report, specifying the parts of the annual report that are altered or disallowed. The annual report remains under the control of the legislative body and in custody of the chairperson of the legislative body, who shall keep it open to inspection by taxpayers of the township district.

Sec. 11. (a) The legislative body shall fix the:

- (1) salaries;
- (2) wages;
- (3) rates of hourly pay; and
- (4) remuneration other than statutory allowances;

of all officers and employees of the township district.

(b) Subject to subsection (c), the legislative body may reduce the salary of an elected or appointed official. However, the official is entitled to a salary that is not less than the salary fixed for the first year of the term of office that immediately preceded the current term of office.

(c) The legislative body may not alter the salaries of elected or appointed officers during the fiscal year for which they are fixed, but the legislative body may add or eliminate any other position and change the salary of any other employee, if the necessary funds and appropriations are available.

(d) If a change in the mileage allowance paid to state officers and employees is established by July 1 of any year, that change shall be included in the compensation fixed for the executive under this section and take effect January 1 of the next year. However, the legislative body may by ordinance provide for the change in the sum per mile to take effect before January 1 of the next year.

(e) The legislative body may not reduce the salary of the executive without the consent of the executive during the term of office of the executive as set forth in IC 36-6-4.1-7.

(f) This subsection applies when an executive dies or resigns from office. The person filling the vacancy of the executive shall receive at least the same salary the previous executive received for the remainder of the unexpired term of office of the executive (as set forth in IC 36-6-4.1-7), unless the person consents to a reduction in salary.

Sec. 12. (a) The legislative body shall meet annually in accordance with IC 6-1.1-17 to adopt the annual budget of the district.

(b) The legislative body shall consider the estimates of expenditures made by the executive under IC 36-6-4.1-15 and may approve or reject all or part of any estimate or any item within an estimate. The legislative body may require the executive to further itemize an estimate not sufficiently itemized.

(c) The legislative body may not appropriate for any purpose an amount more than the executive's estimate of the amount required for that purpose.

(d) The legislative body shall include in the budget:

- (1) provisions for the payment of existing debt of the township district as it becomes due; and
- (2) the salaries fixed under section 11 of this chapter.

(e) In making levies for the general fund of the township district, the legislative body may include an amount not more than the amount necessary to compensate its members for their services during the year for which the levies are made.

(f) After the legislative body has taken action on the executive's estimates, it shall levy taxes for the township district funds on

property in the township district and fix rates of taxation sufficient to provide that revenue during the next year.

(g) On the assessment date (as defined by IC 6-1.1-1-2), the rates of taxation adopted under this section become a levy and a lien on all taxable property in the township district, including property in municipalities in the township district. The levy constitutes an appropriation for the specific items in the executive's estimates.

Sec. 13. (a) The legislative body may appropriate money for membership of the township district in county, state, or national associations that:

- (1) are of a civic, an educational, or a governmental nature; and
- (2) have as a purpose the improvement of township or township district governmental operations.

The township district representatives may participate in the activities of these associations, and the legislative body may appropriate money to defray the expenses of township district representatives in connection with these activities.

(b) Each representative of the township district attending any meeting, conference, seminar, or convention approved by the executive shall be reimbursed for all necessary and legitimate expenses incurred while representing the township district. Expenses shall be paid to each representative in accordance with the reimbursement policy of the township district, which may include an established per diem rate, as recommended by the executive and adopted by the legislative body.

Sec. 14. (a) A special meeting may be held by the legislative body if the executive, the chairperson of the legislative body, or a majority of the members of the legislative body issue a written notice of the meeting to each member of the legislative body. The notice must state the date, time, place, and purpose of the meeting.

(b) At the special meeting, if a majority of the members give their consent, the legislative body may determine whether there is an emergency requiring the expenditure of money not included in the budget estimates and levy of the township district. Subject to section 15 of this chapter, if the legislative body finds that such an emergency exists, it may issue a special order, entered and signed on the record, authorizing the executive to borrow a specified amount of money sufficient to meet the emergency. At the legislative body's next annual session, the legislative body shall cover the debt created by making a levy to the credit of the fund for which the amount was borrowed under this subsection.

Sec. 15. (a) If the legislative body issues a special order under section 14 of this chapter authorizing the executive to borrow money, not less than ten (10) taxpayers in the township district who disagree with the special order may file a petition in the office of the controller of the consolidated city not more than thirty (30) days after notice of the special order is given. The petition must state the taxpayers' objections and the reasons why the taxpayers believe the special order is unnecessary or unwise.

(b) The controller of the consolidated city shall immediately certify a copy of the petition, together with other data necessary to present the questions involved, to the department of local government finance. Upon receipt of the certified petition and other data, the department of local government finance shall fix a date, time, and place for the hearing of the matter. The hearing must be held not less than five (5) and not more than thirty (30) days after the receipt of the certified documents.

(c) The hearing must be held in the township district where the petition arose.

(d) Notice of the hearing shall be given by the department of local government finance to the township district and to the first ten (10) taxpayer petitioners listed on the petition by letter. The letter shall be sent to the first ten (10) taxpayer petitioners at each taxpayer's usual place of residence at least five (5) days before the date of the hearing.

(e) A:

- (1) taxpayer who signed a petition filed under subsection (a); or
- (2) township district against which a petition under subsection (a) is filed;

may petition for judicial review of the final determination of the

department of local government finance under subsection (a). The petition must be filed in the tax court not more than forty-five (45) days after the date of the department's final determination.

Sec. 16. (a) If the legislative body finds that an emergency requires the borrowing of money to meet the current expenses of the township district, the legislative body may take out temporary loans in an amount not more than fifty percent (50%) of the total anticipated revenue for the remainder of the year in which the loans are taken out.

(b) The legislative body must authorize the temporary loans by a resolution:

- (1) stating the nature of the consideration for the loans;**
- (2) stating the date the loans are payable;**
- (3) stating the place the loans are payable;**
- (4) stating a rate of interest;**
- (5) stating the anticipated revenues on which the loans are based and out of which they are payable; and**
- (6) appropriating a sufficient amount of the anticipated revenues on which the loans are based and out of which they are payable for the payment of the loans.**

(c) The loans must be evidenced by time warrants of the township district stating:

- (1) the nature of the consideration;**
- (2) the date payable;**
- (3) the place payable; and**
- (4) the anticipated revenues on which they are based and out of which they are payable.**

SECTION 151. IC 36-6-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 1. **(a) Except as provided in subsection (b), this chapter applies to all townships.**

(b) Sections 5, 6, 9, 10, and 11 of this chapter do not apply to a township located in a county having a consolidated city.

SECTION 152. IC 36-6-8-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 10. (a) The county fiscal body shall, in the manner prescribed by IC 36-2-5 or IC 36-2-6, fix and appropriate money to pay the per diem established under section 5 of this chapter and the salaries and per diems of the county's township assessors and any deputies or other employees that assist the elected township assessor.

(b) Each township assessor shall file the budget estimate required by IC 36-2-5-5. ~~or IC 36-3-6-4.~~ The budget estimate filed under this subsection must include all estimated expenses of the office, including costs incurred through litigation for the office.

(c) If the township executive is performing the duties of assessor, the county fiscal body shall appropriate money for the purposes of subsection (a) and other expenses of acting as assessor, including all costs incurred through litigation for the office. However, it may not provide a salary that is below the amount fixed for that salary for the year 1984.

SECTION 153. IC 36-7-11.2-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 11. As used in this chapter, "notice" means written notice:

- (1) served personally upon the person, official, or office entitled to the notice; or
- (2) served upon the person, official, or office by placing the notice in the United States mail, first class postage prepaid, properly addressed to the person, official, or office. Notice is considered served if mailed in the manner prescribed by this subdivision properly addressed to the following:
 - (A) The governor, both to the address of the governor's official residence and to the governor's executive office in Indianapolis.
 - (B) The Indiana department of transportation, to the commissioner.
 - (C) The department of natural resources, both to the director of the department and to the director of the department's division of historic preservation and archeology.
 - (D) The department of metropolitan development.
 - (E) An occupant, to:
 - (i) the person by name; or
 - (ii) if the name is unknown, to the "Occupant" at the address of the Meridian Street or bordering property

occupied by the person.

(F) An owner, to the person by the name shown to be the name of the owner, and at the person's address, as the address appears in the records in the bound volumes of the most recent real estate tax assessment records as the records appear in the offices of the ~~township assessors~~ **county assessor** in Marion County.

(G) A neighborhood association or the society, to the organization at the latest address as shown in the records of the commission.

SECTION 154. IC 36-7-11.2-58 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 58. (a) A person who has filed a petition under section 56 or 57 of this chapter shall, not later than ten (10) days after the filing, serve notice upon all interested parties. The notice must state the following:

- (1) The full name and address of the following:
 - (A) The petitioner.
 - (B) Each attorney acting for and on behalf of the petitioner.
- (2) The street address of the Meridian Street and bordering property for which the petition was filed.
- (3) The name of the owner of the property.
- (4) The full name and address of, and the type of business, if any, conducted by:
 - (A) each person who at the time of the filing is a party to; and
 - (B) each person who is a disclosed or an undisclosed principal for whom the party was acting as agent in entering into;

a contract of sale, lease, option to purchase or lease, agreement to build or develop, or other written agreement of any kind or nature concerning the subject property or the present or future ownership, use, occupancy, possession, or development of the subject property.

(5) A description of the contract of sale, lease, option to purchase or lease, agreement to build or develop, or other written agreement sufficient to disclose the full nature of the interest of the party or of the party's principal in the subject property or in the present or future ownership, use, occupancy, possession, or development of the subject property.

(6) A description of the proposed use for which the rezoning or zoning variance is sought, sufficiently detailed to appraise the notice recipient of the true character, nature, extent, and physical properties of the proposed use.

(7) The date of the filing of the petition.

(8) The date, time, and place of the next regular meeting of the commission if a petition is for approval of a zoning variance. If a petition is filed with the development commission, the notice does not have to specify the date of a hearing before the commission or the development commission. However, the person filing the petition shall give ten (10) days notice of the date, time, and place of a hearing before the commission on the petition after the referral of the petition to the commission by the development commission.

(b) For purposes of giving notice to the interested parties who are owners, the records in the bound volumes of the recent real estate tax assessment records as the records appear in the offices of the ~~township assessors~~ **county assessor** as of the date of filing are considered determinative of the persons who are owners.

SECTION 155. IC 36-7-15.1-32 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 32. (a) The commission must establish a program for housing. The program, which may include such elements as the commission considers appropriate, must be adopted as part of a redevelopment plan or amendment to a redevelopment plan, and must establish an allocation area for purposes of sections 26 and 35 of this chapter for the accomplishment of the program.

(b) The notice and hearing provisions of sections 10 and 10.5 of this chapter apply to the resolution adopted under subsection (a). Judicial review of the resolution may be made under section 11 of this chapter.

(c) Before formal submission of any housing program to the commission, the department shall consult with persons interested in or affected by the proposed program and provide the affected

neighborhood associations, residents, and ~~township assessors~~ **the county assessor** with an adequate opportunity to participate in an advisory role in planning, implementing, and evaluating the proposed program. The department may hold public meetings in the affected neighborhood to obtain the views of neighborhood associations and residents.

SECTION 156. IC 36-8-7-1, AS AMENDED BY P.L.227-2005, SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 1. (a) This chapter applies to pension benefits for members of fire departments hired before May 1, 1977, in units for which a 1937 fund was established before May 1, 1977.

(b) A firefighter with twenty (20) years of service is covered by this chapter and not by IC 36-8-8 if the firefighter:

- (1) was hired before May 1, 1977;
- (2) did not convert under IC 19-1-36.5-7 (repealed September 1, 1981); and
- (3) is rehired after April 30, 1977, by the same employer.

(c) A firefighter is covered by this chapter and not by IC 36-8-8 if the firefighter:

- (1) was hired before May 1, 1977;
- (2) did not convert under IC 19-1-36.5-7 (repealed September 1, 1981);
- (3) was rehired after April 30, 1977, but before February 1, 1979; and
- (4) was made, before February 1, 1979, a member of a 1937 fund.

(d) A firefighter who:

- (1) is covered by this chapter before ~~a consolidation under IC 36-3-1-6.1; January 1, 2007; and~~
- (2) **after December 31, 2006**, becomes a member of a fire department of a consolidated city under IC 36-3-1-6.1;

is covered by this chapter after ~~the effective date of the consolidation; December 31, 2006~~, and the firefighter's service as a member of a fire department of a consolidated city is considered active service under this chapter.

SECTION 157. IC 36-8-7-4, AS AMENDED BY P.L.227-2005, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 4. (a) If a unit has less than five (5) members in its fire department, the unit may provide for the organization of a local board consisting of the fire chief, the executive of the unit, and one (1) member of the fire department.

(b) The trustee from the fire department shall be elected under this section.

(c) The local board may amend the bylaws of the fund to elect the trustee from the fire department in an election held on any three (3) consecutive days in February specified in the bylaws. The election shall be called by the fire chief and held at the house or quarters of the fire department. Subject to this section, the election shall be conducted in the manner specified in the bylaws.

(d) This subsection applies only if the local board does not elect to be governed by subsection (c). The trustee from the fire department shall be elected at a meeting held on the second Monday in February each year. The meeting shall be called by the fire chief and held at the house or quarters of the fire department.

(e) The term of the elected trustee is one (1) year beginning immediately after the trustee's election.

(f) Each member of the department is entitled to one (1) ballot and the person receiving the highest number of votes is elected. The executive of the unit, the fire chief, and the city or county clerk shall canvass and count the ballots, and the clerk shall issue a certificate of election to the person having received the highest number of votes. If two (2) persons have received the same number of votes, the executive and the chief shall immediately determine by lot who will be the trustee from the persons receiving an equal number of votes.

~~(g) This section does not apply to a township if the fire department of the township is consolidated under IC 36-3-1-6.1.~~

SECTION 158. IC 36-8-7-5, AS AMENDED BY P.L.227-2005, SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 5. (a) An election shall be held each year under this section to elect one (1) trustee from the active members of the fire department for a term of four (4) years, commencing on the day of his election. The fire chief shall fix a time

for holding a convention to nominate candidates for trustees to be elected at each election. Each convention must be held at least five (5) days before the day on which the annual election is held. A convention consists of one (1) delegate from each fire company and one (1) delegate to be selected by the chief and the chief's assistants. The delegate from each fire company shall be elected by ballot by the members of the company at a time to be fixed by the chief in the call for a convention. The election of delegates shall be certified by the captain or other officer of the company, or, if there is not an officer present, then by the oldest member of the company present. The convention, when assembled, shall nominate six (6) members of the fire department to be voted upon as trustees, and the delegates shall report the names of the persons nominated as candidates to their respective companies in writing.

(b) The local board may amend the bylaws of the fund to elect the trustee from the active members of the fire department in an election held on any three (3) consecutive days in February specified in the bylaws. The election shall be called by the fire chief and held at the house or quarters of the respective companies of the fire department. Subject to this section, the election shall be conducted in the manner specified in the bylaws.

(c) This subsection applies only if the local board does not elect to be governed by subsection (b). The election shall be held at the houses or quarters of the respective companies on the second Monday in February between 9 a.m. and 6 p.m.

(d) Each member of a fire company is entitled to one (1) ballot, and the ballot may not contain the names of more than one (1) person, chosen from the six (6) persons nominated by the convention. The candidate receiving the highest number of votes is elected.

(e) The captain or other officer in command of each of the fire companies, immediately after the casting of all ballots, shall canvass and count the ballots. The captain or other officer shall certify in writing the total number of ballots cast and the number of votes received by each candidate for the office of trustee. After signing the certificate, the officer shall enclose it, together with all the ballots cast by the fire company, in an envelope, securely sealed and addressed, and deliver them to the fire chief. The fire chief shall deliver them to the executive of the unit as soon as the chief receives all the certificates and ballots. Upon receipt the executive shall, in the presence of the chief and the clerk of the unit, open the envelopes, examine the certificates, and determine the total number of votes cast for each of the candidates. The executive shall then issue a certificate of election to the candidate having received the highest number of votes. If two (2) or more candidates have received the same number of votes, the executive and the chief shall immediately determine by lot who will be trustee from the persons receiving an equal number of votes. An election may not be set aside for lack of formality in balloting by the members or in certifying or transmitting the returns of an election by the officers in charge.

~~(f) This section does not apply to a township if the fire department of the township is consolidated under IC 36-3-1-6.1.~~

SECTION 159. IC 36-8-7-6, AS AMENDED BY P.L.227-2005, SECTION 42, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 6. (a) An election shall be held under this section every two (2) years to elect one (1) trustee from the retired members of the fire department for a term of two (2) years, commencing on the day of the trustee's election, if the retired list contains at least three (3) retired members at the time of election. The fire chief shall fix a time for holding a convention to nominate candidates for trustee to be elected at each election. Each convention must be held at least fifteen (15) days before the day on which the biennial election is held. All retired members of the fire department may participate in the convention. The convention, when assembled, shall nominate not more than four (4) members of the retired list to be voted upon as trustee. The secretary of the board shall mail the names of the persons nominated along with an official ballot to the retired members within forty-eight (48) hours of the end of the convention.

(b) The election shall be conducted by mail. Each retired member is entitled to cast one (1) ballot by mail and the ballot may not contain more than one (1) name, chosen from the list of retired persons nominated by the convention. The candidate receiving the highest number of votes by 6 p.m. on the second Monday in February or an alternative date in February specified in the bylaws of the fund is

elected.

(c) The ballots must remain closed and inviolate until the close of the election, at which time, in the presence of the executive of the unit, the fire chief, and the clerk of the unit, the ballots shall be opened and counted. A certificate of election shall be issued to the candidate receiving the highest number of votes. If two (2) or more candidates receive the same number of votes, the executive and the chief shall immediately determine by lot who will be trustee from the persons receiving an equal number of votes.

~~(d) This section does not apply to a township if the fire department of the township is consolidated under IC 36-3-1-6.1.~~

SECTION 160. IC 36-8-7-6.5, AS AMENDED BY P.L.227-2005, SECTION 43, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 6.5. (a) All ballots voted under this chapter shall be secured until the balloting is closed.

(b) Tampering with a ballot for an election under this chapter is a Class A infraction.

~~(c) This section does not apply to a township if the fire department of the township is consolidated under IC 36-3-1-6.1.~~

SECTION 161. IC 36-8-7-7, AS AMENDED BY P.L.227-2005, SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 7. (a) The fire chief is the president of the local board.

(b) At the first meeting after each election, the local board shall elect a secretary, who may be chosen from among the trustees. However, the local board may consider it proper to have a secretary who is a member of the fire department, to be elected by the companies for a term of four (4) years in the same manner as the election for trustees. The secretary shall keep a full record of all the proceedings of the local board in a book provided for that purpose.

(c) The local board shall make all rules necessary for the discharge of its duties and shall hear and determine all applications for relief or pensions under this chapter.

~~(d) This section does not apply to a township if the fire department of the township is consolidated under IC 36-3-1-6.1.~~

SECTION 162. IC 36-8-8-1, AS AMENDED BY P.L.227-2005, SECTION 46, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 1. This chapter applies to:

(1) full-time police officers hired or rehired after April 30, 1977, in all municipalities, or who converted their benefits under IC 19-1-17.8-7 (repealed September 1, 1981);

(2) full-time fully paid firefighters hired or rehired after April 30, 1977, or who converted their benefits under IC 19-1-36.5-7 (repealed September 1, 1981);

(3) a police matron hired or rehired after April 30, 1977, and before July 1, 1996, who is a member of a police department in a second or third class city on March 31, 1996;

(4) a park ranger who:

(A) completed at least the number of weeks of training at the Indiana law enforcement academy or a comparable law enforcement academy in another state that were required at the time the park ranger attended the Indiana law enforcement academy or the law enforcement academy in another state;

(B) graduated from the Indiana law enforcement academy or a comparable law enforcement academy in another state; and

(C) is employed by the parks department of a city having a population of more than one hundred twenty thousand (120,000) but less than one hundred fifty thousand (150,000);

(5) a full-time fully paid firefighter who is covered by this chapter before the effective date of consolidation January 1, 2007, and, after December 31, 2006, becomes a member of the fire department of a consolidated city under IC 36-3-1-6.1 or IC 36-3-1-6.3; provided that however, the firefighter's service as a member of the fire department of a consolidated city is considered active service under this chapter;

(6) except as otherwise provided, a full-time fully paid firefighter who is hired or rehired after the effective date of the consolidation December 31, 2006, by a consolidated fire department established under IC 36-3-1-6.1;

(7) a full-time police officer who is covered by this chapter before the effective date of consolidation and becomes a

member of the consolidated law enforcement department as part of the consolidation under IC 36-3-1-5.1, provided that the officer's service as a member of the consolidated law enforcement department is considered active service under this chapter; and

(8) except as otherwise provided, a full-time police officer who is hired or rehired after the effective date of the consolidation by a consolidated law enforcement department established under IC 36-3-1-5.1;

except as provided by section 7 of this chapter.

SECTION 163. IC 36-8-8-2.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 2.1. (a) As used in this chapter, "local board" means the following:

(1) For a unit that established a 1925 fund for its police officers, the local board described in IC 36-8-6-2.

(2) **Except as provided in subdivision (3),** for a unit that established a 1937 fund for its firefighters, the local board described in IC 36-8-7-3.

(3) For a unit that established a 1937 fund for its firefighters and consolidates its fire department into the fire department of a consolidated city under IC 36-3-1-6.1 or IC 36-3-1-6.3:

(A) before the date the consolidation is effective, the local board described in IC 36-8-7-3; and

(B) on and after the date the consolidation is effective, the local board of the consolidated city established under IC 36-8-7-3.

~~(4)~~ (4) For a consolidated city that established a 1953 fund for its police officers, the local board described in IC 36-8-7.5-2.

~~(5)~~ (5) For a unit, other than a consolidated city, that did not establish a 1925 fund for its police officers or a 1937 fund for its firefighters, the local board described in subsection (b) or (c).

(b) If a unit did not establish a 1925 fund for its police officers, a local board shall be composed in the same manner described in IC 36-8-6-2(b). However, if there is not a retired member of the department, no one shall be appointed to that position until such time as there is a retired member.

(c) **Except as provided in subsection (d),** if a unit did not establish a 1937 fund for its firefighters, a local board shall be composed in the same manner described in IC 36-8-7-3(b). However, if there is not a retired member of the department, no one shall be appointed to that position until such time as there is a retired member.

(d) If a unit located in a county containing a consolidated city did not establish a 1937 fund for its firefighters and consolidates its fire department into the fire department of the consolidated city under IC 36-3-1-6.1 or IC 36-3-1-6.3, the local board is:

(1) before the effective date of the consolidation, the local board described in IC 36-8-7-3; and

(2) on and after the effective date of the consolidation, the local board of the consolidated city established under IC 36-8-7-3.

SECTION 164. IC 36-8-8-7, AS AMENDED BY P.L.227-2005, SECTION 48, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 7. (a) Except as provided in subsections (d), (e), (f), (g), (h), (k), (l), and (m): ~~and (n):~~

(1) a police officer; or

(2) a firefighter;

who is less than thirty-six (36) years of age and who passes the baseline statewide physical and mental examinations required under section 19 of this chapter shall be a member of the 1977 fund and is not a member of the 1925 fund, the 1937 fund, or the 1953 fund.

(b) A police officer or firefighter with service before May 1, 1977, who is hired or rehired after April 30, 1977, may receive credit under this chapter for service as a police officer or firefighter prior to entry into the 1977 fund if the employer who rehires the police officer or firefighter chooses to contribute to the 1977 fund the amount necessary to amortize the police officer's or firefighter's prior service liability over a period of not more than forty (40) years, the amount and the period to be determined by the PERF board. If the employer chooses to make the contributions, the police officer or firefighter is entitled to receive credit for the police officer's or firefighter's prior years of service without making contributions to the 1977 fund for that prior service. In no event may a police officer or firefighter

receive credit for prior years of service if the police officer or firefighter is receiving a benefit or is entitled to receive a benefit in the future from any other public pension plan with respect to the prior years of service.

(c) Except as provided in section 18 of this chapter, a police officer or firefighter is entitled to credit for all years of service after April 30, 1977, with the police or fire department of an employer covered by this chapter.

(d) A police officer or firefighter with twenty (20) years of service does not become a member of the 1977 fund and is not covered by this chapter, if the police officer or firefighter:

- (1) was hired before May 1, 1977;
- (2) did not convert under IC 19-1-17.8-7 or IC 19-1-36.5-7 (both of which were repealed September 1, 1981); and
- (3) is rehired after April 30, 1977, by the same employer.

(e) A police officer or firefighter does not become a member of the 1977 fund and is not covered by this chapter if the police officer or firefighter:

- (1) was hired before May 1, 1977;
- (2) did not convert under IC 19-1-17.8-7 or IC 19-1-36.5-7 (both of which were repealed September 1, 1981);
- (3) was rehired after April 30, 1977, but before February 1, 1979; and
- (4) was made, before February 1, 1979, a member of a 1925, 1937, or 1953 fund.

(f) A police officer or firefighter does not become a member of the 1977 fund and is not covered by this chapter if the police officer or firefighter:

- (1) was hired by the police or fire department of a unit before May 1, 1977;
- (2) did not convert under IC 19-1-17.8-7 or IC 19-1-36.5-7 (both of which were repealed September 1, 1981);
- (3) is rehired by the police or fire department of another unit after December 31, 1981; and
- (4) is made, by the fiscal body of the other unit after December 31, 1981, a member of a 1925, 1937, or 1953 fund of the other unit.

If the police officer or firefighter is made a member of a 1925, 1937, or 1953 fund, the police officer or firefighter is entitled to receive credit for all the police officer's or firefighter's years of service, including years before January 1, 1982.

(g) As used in this subsection, "emergency medical services" and "emergency medical technician" have the meanings set forth in IC 16-18-2-110 and IC 16-18-2-112. A firefighter who:

- (1) is employed by a unit that is participating in the 1977 fund;
- (2) was employed as an emergency medical technician by a political subdivision wholly or partially within the department's jurisdiction;
- (3) was a member of the public employees' retirement fund during the employment described in subdivision (2); and
- (4) ceased employment with the political subdivision and was hired by the unit's fire department due to the reorganization of emergency medical services within the department's jurisdiction;

shall participate in the 1977 fund. A firefighter who participates in the 1977 fund under this subsection is subject to sections 18 and 21 of this chapter.

(h) A police officer or firefighter does not become a member of the 1977 fund and is not covered by this chapter if the individual was appointed as:

- (1) a fire chief under a waiver under IC 36-8-4-6(c); or
- (2) a police chief under a waiver under IC 36-8-4-6.5(c);

unless the executive of the unit requests that the 1977 fund accept the individual in the 1977 fund and the individual previously was a member of the 1977 fund.

(i) A police matron hired or rehired after April 30, 1977, and before July 1, 1996, who is a member of a police department in a second or third class city on March 31, 1996, is a member of the 1977 fund.

(j) A park ranger who:

- (1) completed at least the number of weeks of training at the Indiana law enforcement academy or a comparable law enforcement academy in another state that were required at the

time the park ranger attended the Indiana law enforcement academy or the law enforcement academy in another state;

- (2) graduated from the Indiana law enforcement academy or a comparable law enforcement academy in another state; and
- (3) is employed by the parks department of a city having a population of more than one hundred twenty thousand (120,000) but less than one hundred fifty thousand (150,000);

is a member of the fund.

(k) Notwithstanding any other provision of this chapter, a police officer or firefighter:

- (1) who is a member of the 1977 fund before a consolidation under IC 36-3-1-5.1, ~~or~~ IC 36-3-1-6.1, **or IC 36-3-1-6.3;**
- (2) whose employer is consolidated into the **consolidated law enforcement department or the fire department of a consolidated city** under IC 36-3-1-5.1, ~~or~~ IC 36-3-1-6.1, **or IC 36-3-1-6.3;** and
- (3) who, after the consolidation, becomes an employee of the consolidated law enforcement department or the consolidated fire department under IC 36-3-1-5.1, ~~or~~ IC 36-3-1-6.1, **or IC 36-3-1-6.3;**

is a member of the 1977 fund without meeting the requirements under sections 19 and 21 of this chapter.

(l) Notwithstanding any other provision of this chapter, a police officer or firefighter who:

- (1) before a consolidation under IC 36-3-1-5.1 or IC 36-3-1-6.1, provides law enforcement services or fire protection services for an entity in a consolidated city;
- (2) has the provision of those services consolidated into the **consolidated law enforcement department or the fire department of a consolidated city under IC 36-3-1-5.1 or IC 36-3-1-6.1;** and
- (3) after the consolidation, becomes an employee of the consolidated law enforcement department or the consolidated fire department under IC 36-3-1-5.1 or IC 36-3-1-6.1;

is a member of the 1977 fund without meeting the requirements under sections 19 and 21 of this chapter.

(m) A police officer or firefighter who is a member of the 1977 fund under subsection (k) or (l):

- (1) may not be:
 - (~~1~~) **(A)** retired for purposes of section 10 of this chapter; or
 - (~~2~~) **(B)** disabled for purposes of section 12 of this chapter; solely because of a change in employer under the consolidation; and
- (2) shall receive credit for all years of service as a member of the 1977 fund before the consolidation described in subsection (k) or (l).

SECTION 166. IC 36-8-13-1, AS AMENDED BY P.L.227-2005, SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 1. This chapter applies to all townships. ~~However, this chapter does not apply to a township in which the fire department of the township has been consolidated under IC 36-3-1-6.1; except townships located in a consolidated city.~~

SECTION 167. IC 36-8-19-1.5, AS ADDED BY P.L.227-2005, SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 1.5. ~~If the fire departments of a township is consolidated under IC 36-3-1-6.1; after the effective date of the consolidation the township may not establish fire protection territory under this chapter.~~ (a) **In a county having a consolidated city, only:**

- (1) **a consolidated city; or**
- (2) **an excluded city;**

may establish a fire protection territory under this chapter.

(b) A fire protection territory that is established before ~~the effective date of the consolidation in a township in which the township's fire department January 1, 2007, by a unit that is consolidated under~~ IC 36-3-1-6.1 becomes part of the geographic area in which the fire department of a consolidated city provides fire protection services.

SECTION 168. IC 36-9-11.1-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 11. (a) All property of every kind, including air rights, acquired for off-street parking purposes, and all its funds and receipts, are exempt from taxation for all purposes. When any real property is acquired by the

consolidated city, the county auditor shall, upon certification of that fact by the board, cancel all taxes then a lien. The certificate of the board must specifically describe the real property, including air rights, and the purpose for which acquired.

(b) A lessee of the city may not be assessed any tax upon any land, air rights, or improvements leased from the city, but the separate leasehold interest has the same status as leases on taxable real property, notwithstanding any other law. Whenever the city sells any such property to anyone for private use, the property becomes liable for all taxes after that, as other property is so liable and is assessed, and the board shall report all such sales to the ~~township~~ county assessor, who shall cause the property to be upon the proper tax records.

SECTION 169. IC 36-9-17.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 1. (a) Except as provided in subsection (b), this chapter applies to ~~all townships~~ a township.

(b) This chapter does not apply to a township or township district in a county having a consolidated city.

SECTION 170. IC 36-10-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 1. (a) Except as provided in subsection (b), this chapter applies to the townships indicated in each section.

(b) This chapter does not apply to a township in a county having a consolidated city. All powers and duties related to parks and recreation of the townships in a county having a consolidated city are transferred to the consolidated city.

SECTION 171. IC 36-10-7.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 1. (a) Except as provided in subsection (b), this chapter applies to ~~all townships~~ a township.

(b) This chapter does not apply to a township in a county having a consolidated city, and all powers and duties related to parks and recreation of the townships in a county having a consolidated city are transferred to the consolidated city.

SECTION 172. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2006]: IC 3-11-1.5-32.5; IC 33-34; IC 36-6-6-2.5; IC 36-8-4.3.

SECTION 176. [EFFECTIVE JULY 1, 2006] The general assembly finds the following:

(1) A consolidated city faces unique budget challenges due to a high demand for services combined with the large number of tax exempt properties located in a consolidated city as the seat of state government, home to several institutions of higher education, and home to numerous national, state, and regional nonprofit corporations.

(2) By virtue of its size and population density, a consolidated city has unique overlapping territories of county, city, and township government and an absence of unincorporated areas within its county.

(3) By virtue of its size, population, and absence of unincorporated areas, development extends to and across the boundaries of the contiguous governmental territories located within a county having a consolidated city, thus giving less meaning to boundaries of the governmental territories located within the county.

(4) By virtue of its size, population, absence of unincorporated areas, overlapping territories, and development to and across the boundaries of contiguous governmental territories, there is less need for differentiation of local governmental services within the separate governmental territories located within a county having a consolidated city, but rather the local governmental service needs are similar and more uniform within and across a county having a consolidated city.

(5) The provision of local governmental services by multiple governmental entities with overlapping territories, and by governmental entities with contiguous territories with less meaningful boundaries, results in disparate levels of local government services within a county having a consolidated city and results in the inefficient and poor use of taxpayer dollars.

(6) As the state capital and a center for professional

sporting events, tourism, and culture in central Indiana, the consolidated city faces unique demands for protecting governmental property and securing the safety of large numbers of residents and visitors, which require innovative approaches to public safety resources.

(7) If public safety resources are consolidated, residual services provided by townships are limited and can more effectively and uniformly be performed through consolidation at the city or county level.

(8) By virtue of its size and population patterns, township assistance needs in a consolidated city are greatest in its urban center and differ from the township assistance needs outside the urban center, and the lesser township assistance services outside the urban center can be more effectively and uniformly delivered through a consolidated district.

(9) Substantial operational efficiencies, reduction of administrative costs, and economies of scale may be obtained in a consolidated city through further consolidation of county, city, and township services and operations.

(10) Consolidation of county, city, and township services and operations in the consolidated city will serve the public purpose by allowing the consolidated city to:

- (A) eliminate duplicative services;
- (B) provide better coordinated and more uniform delivery of local governmental services;
- (C) provide uniform oversight and accountability for the budgets for local governmental services;
- (D) simplify the system of property taxation;
- (E) provide more unified tax rates; and
- (F) allow local government services to be provided more efficiently and at a lower cost than without consolidation.

(11) Efficient and fiscally responsible operation of local government benefits the health and welfare of the citizens of a consolidated city and is of public utility and benefit.

(12) The public purpose of this act is to provide a consolidated city with the means to perform essential governmental services for its citizens in an effective, efficient, and fiscally responsible manner.

SECTION 173. [EFFECTIVE JULY 1, 2006] For property taxes first due and payable in 2007, the maximum permissible ad valorem property tax levy under IC 6-1.1-18.5 for a county having a consolidated city is increased by the amount levied in 2006 for assessor and related services by each township in the county.

SECTION 174. [EFFECTIVE JULY 1, 2006] Each township district shall refer the township district's proposed budget, ad valorem property tax levy, and property tax rate for 2009 to the local government tax control board, which shall review and set the budget, levy, and rate as though the township district is covered by IC 6-1.1-18.5-7. For property taxes first due and payable in 2009, the maximum permissible ad valorem property tax limits and any other limits on ad valorem property taxes set forth in IC 6-1.1-18.5 for:

(1) a central township district shall be based upon the sum of:

- (A) the amount levied in 2008 for the general fund; plus
- (B) the amount levied in 2008 for township assistance, including reasonable administrative costs, in the central township district in a county having a consolidated city; plus
- (C) thirty-five percent (35%) of the amount levied in 2008 for township assistance, including reasonable administrative costs, by each other township located in the county containing a consolidated city; and

(2) a consolidated township district shall be based upon sixty-five percent (65%) of the amount levied in 2008 for township assistance, including reasonable administrative costs, by each township located in a county having a consolidated city, other than the central township district in a county having a consolidated city.

SECTION 175. [EFFECTIVE JULY 1, 2006] (a) Any case pending in a township small claims court established by IC 33-34, as repealed by this act, after the close of business on December

31, 2006, is transferred on January 1, 2007, to the corresponding township division of the small claims division of the Marion superior court established under IC 33-33-49-14(c)(5) and IC 33-33-49-14.1, both as added by this act. A case transferred under this SECTION shall be treated as if the case were filed in the corresponding township division of the small claims division of the Marion superior court.

(b) On January 1, 2007, all property and obligations of a township small claims court established by IC 33-34, as repealed by this act, become the property and obligations of the corresponding township division of the small claims division of the Marion superior court established under IC 33-33-49-14(c)(5) and IC 33-33-49-14.1, both as added by this act.

(c) This SECTION expires January 2, 2008.

SECTION 176. [EFFECTIVE JULY 1, 2006] (a) Notwithstanding the amendment and repeal by this act of provisions in IC 33-33-49 and IC 33-34, the term of a judge in office in a township small claims court established by IC 33-34, as repealed by this act, does not terminate until the date that the term would have terminated under the law in effect on December 31, 2006. The election for the initial small claims judges to be elected to the township divisions of the small claims division of the Marion superior court under IC 33-33-49-13.1, as added by this act, is the election to be held in the November immediately preceding the date that the corresponding term of the judge in office in a township small claims court established by IC 33-34, as repealed by this act, on December 31, 2006, would have terminated under the law in effect on December 31, 2006.

(b) Notwithstanding the amendment and repeal by this act of provisions in IC 33-33-49 and IC 33-34, the term of a constable for a township small claims court established by IC 33-34, as repealed by this act, does not terminate until the date that the term would have terminated under the law in effect on December 31, 2006. The election for the initial small claims constables to be elected under IC 33-33-49-14.2, as added by this act, is the election to be held in the November immediately preceding the date that the corresponding term of the constable for a township small claims court established by IC 33-34, as repealed by this act, on December 31, 2006, would have terminated under the law in effect on December 31, 2006.

(c) This SECTION expires January 2, 2011.

SECTION 177. [EFFECTIVE JULY 1, 2006] (a) For property taxes first due and payable in 2007, the maximum permissible ad valorem property tax levy under IC 6-1.1-18.5:

(1) is increased for a consolidated city by the amount levied in 2006 for fire protection and related services by each:

- (A) township;
- (B) airport authority;
- (C) fire protection territory; or
- (D) excluded city;

whose fire department is consolidated into the fire department of a consolidated city under IC 36-3-1-6.1, as amended by this act, or IC 36-3-1-6.3, as added by this act; and

(2) is reduced for:

- (A) a township;
- (B) an airport authority;
- (C) a fire protection territory; or
- (D) an excluded city;

whose fire department is consolidated into the fire department of a consolidated city under IC 36-3-1-6.1, as amended by this act, or IC 36-3-1-6.3, as added by this act, by the amount levied in 2006 for fire protection and related services by each township, airport authority, fire protection territory, or excluded city whose fire department is consolidated into the fire department of a consolidated city under IC 36-3-1-6.1, as amended by this act, or IC 36-3-1-6.3, as added by this act.

(b) This SECTION expires January 1, 2008.

SECTION 178. [EFFECTIVE JULY 1, 2006] For property taxes first due and payable in 2007, the amount levied in 2006 by each:

- (1) township;
- (2) airport authority;
- (3) fire protection territory; or

(4) excluded city;

whose fire department is consolidated into the fire department of a consolidated city under IC 36-3-1-6.1, as amended by this act, or IC 36-3-1-6.3, as added by this act, for its cumulative building and equipment fund for fire protection and related services is transferred to the consolidated city's cumulative building and equipment fund for fire protection and related services, which is hereby established. The consolidated city is exempted from the requirements of IC 36-8-14 and IC 6-1.1-41 regarding establishment of the cumulative building and equipment fund for fire protection and related services.

SECTION 179. [EFFECTIVE UPON PASSAGE] (a) This SECTION applies only to a township in a county having a consolidated city.

(b) Notwithstanding IC 3-10-2-13, as amended by this act, a township assessor for each township in the county shall be elected at the 2006 general election for a term of two (2) years beginning on January 1 following the election as set forth in IC 36-6-5-1, as amended by this act.

(c) This SECTION expires January 1, 2009.

SECTION 180. [EFFECTIVE UPON PASSAGE] (a) This SECTION applies only to a township in a county having a consolidated city.

(b) Notwithstanding IC 3-10-2-13, as amended by this act, a township trustee for each township in the county shall be elected at the 2006 general election for a term of two (2) years beginning on January 1 following the election as set forth in IC 36-6-4-2, as amended by this act.

(c) This SECTION expires January 1, 2009.

SECTION 181. [EFFECTIVE JULY 1, 2006] The legislative services agency shall prepare legislation for introduction in the 2007 regular session of the general assembly to organize and correct statutes affected by this act, if necessary."

Page 4, after line 38, begin a new paragraph and insert:

"SECTION 185. An emergency is declared for this act."

Renumber all SECTIONS consecutively.

(Reference is to HB 1344 as printed January 27, 2006.)

CRAWFORD

Representative Whetstone rose to a point of order, citing Rule 80, stating that the motion was not germane to the bill.

Representative Crawford withdrew the motion.

There being no further amendments, the bill was ordered engrossed.

Representative Welch was excused for the rest of the day.

House Bill 1355

Representative Friend called down House Bill 1355 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1355-1)

Mr. Speaker: I move that House Bill 1355 be amended to read as follows:

Page 11, line 35, delete "governor shall fix the" and insert "annual".

Page 11, line 35, delete "." and insert "is one hundred twenty thousand dollars (\$120,000)".

(Reference is to HB 1355 as printed January 26, 2006.)

V. SMITH

Upon request of Representatives V. Smith and Robertson, the Speaker ordered the roll of the House to be called. Roll Call 108: yeas 40, nays 53. Motion failed.

HOUSE MOTION
(Amendment 1355-4)

Mr. Speaker: I move that House Bill 1355 be amended to read as follows:

Page 11, between lines 24 and 25, begin a new paragraph and insert:

"SECTION 11. IC 20-18-2-22, AS ADDED BY P.L.246-2005, SECTION 126, IS AMENDED TO READ AS FOLLOWS

[EFFECTIVE JULY 1, 2006]: Sec. 22. (a) "Teacher" means a professional person whose position in a school corporation requires certain educational preparation and licensing.

(b) For purposes of IC 20-28, the term includes the following:

- (1) A superintendent **who holds a license under IC 20-28-5.**
- (2) A supervisor.
- (3) A principal.
- (4) An attendance officer.
- (5) A teacher.
- (6) A librarian."

Page 13, between lines 31 and 32, begin a new paragraph and insert:

"SECTION 15. IC 20-26-5-4, AS ADDED BY P.L.1-2005, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. In carrying out the school purposes of a school corporation, the governing body acting on the school corporation's behalf has the following specific powers:

(1) In the name of the school corporation, to sue and be sued and to enter into contracts in matters permitted by applicable law.

(2) To take charge of, manage, and conduct the educational affairs of the school corporation and to establish, locate, and provide the necessary schools, school libraries, other libraries where permitted by law, other buildings, facilities, property, and equipment.

(3) To appropriate from the school corporation's general fund an amount, not to exceed the greater of three thousand dollars (\$3,000) per budget year or one dollar (\$1) per pupil, not to exceed twelve thousand five hundred dollars (\$12,500), based on the school corporation's previous year's average daily membership (as defined in IC 21-3-1.6-1.1) to promote the best interests of the school corporation through:

- (A) the purchase of meals, decorations, memorabilia, or awards;
- (B) provision for expenses incurred in interviewing job applicants; or
- (C) developing relations with other governmental units.

(4) To:

(A) Acquire, construct, erect, maintain, hold, and contract for construction, erection, or maintenance of real estate, real estate improvements, or an interest in real estate or real estate improvements, as the governing body considers necessary for school purposes, including buildings, parts of buildings, additions to buildings, rooms, gymnasiums, auditoriums, playgrounds, playing and athletic fields, facilities for physical training, buildings for administrative, office, warehouse, repair activities, or housing school owned buses, landscaping, walks, drives, parking areas, roadways, easements and facilities for power, sewer, water, roadway, access, storm and surface water, drinking water, gas, electricity, other utilities and similar purposes, by purchase, either outright for cash (or under conditional sales or purchase money contracts providing for a retention of a security interest by the seller until payment is made or by notes where the contract, security retention, or note is permitted by applicable law), by exchange, by gift, by devise, by eminent domain, by lease with or without option to purchase, or by lease under IC 21-5-10, IC 21-5-11, or IC 21-5-12.

(B) Repair, remodel, remove, or demolish, or to contract for the repair, remodeling, removal, or demolition of the real estate, real estate improvements, or interest in the real estate or real estate improvements, as the governing body considers necessary for school purposes.

(C) Provide for energy conservation measures through utility energy efficiency programs or under a guaranteed energy savings contract as described in IC 36-1-12.5.

(5) To acquire personal property or an interest in personal property as the governing body considers necessary for school purposes, including buses, motor vehicles, equipment, apparatus, appliances, books, furniture, and supplies, either by cash purchase or under conditional sales or purchase money contracts providing for a security interest by the seller until

payment is made or by notes where the contract, security, retention, or note is permitted by applicable law, by gift, by devise, by loan, or by lease with or without option to purchase and to repair, remodel, remove, relocate, and demolish the personal property. All purchases and contracts delineated under the powers given under subdivision (4) and this subdivision are subject solely to applicable law relating to purchases and contracting by municipal corporations in general and to the supervisory control of state agencies as provided in section 6 of this chapter.

(6) To sell or exchange real or personal property or interest in real or personal property that, in the opinion of the governing body, is not necessary for school purposes, in accordance with IC 20-26-7, to demolish or otherwise dispose of the property if, in the opinion of the governing body, the property is not necessary for school purposes and is worthless, and to pay the expenses for the demolition or disposition.

(7) To lease any school property for a rental that the governing body considers reasonable or to permit the free use of school property for:

(A) civic or public purposes; or

(B) the operation of a school age child care program for children five (5) years of age through fourteen (14) years of age that operates before or after the school day, or both, and during periods when school is not in session;

if the property is not needed for school purposes. Under this subdivision, the governing body may enter into a long term lease with a nonprofit corporation, community service organization, or other governmental entity, if the corporation, organization, or other governmental entity will use the property to be leased for civic or public purposes or for a school age child care program. However, if payment for the property subject to a long term lease is made from money in the school corporation's debt service fund, all proceeds from the long term lease must be deposited in the school corporation's debt service fund so long as payment for the property has not been made. The governing body may, at the governing body's option, use the procedure specified in IC 36-1-11-10 in leasing property under this subdivision.

(8) To:

(A) Employ, contract for, and discharge superintendents **(who are not required to hold a license under IC 20-28-5)**, supervisors, principals, teachers, librarians, athletic coaches (whether or not they are otherwise employed by the school corporation and whether or not they are licensed under IC 20-28-5), business managers, superintendents of buildings and grounds, janitors, engineers, architects, physicians, dentists, nurses, accountants, teacher aides performing noninstructional duties, educational and other professional consultants, data processing and computer service for school purposes, including the making of schedules, the keeping and analyzing of grades and other student data, the keeping and preparing of warrants, payroll, and similar data where approved by the state board of accounts as provided below, and other personnel or services as the governing body considers necessary for school purposes.

(B) Fix and pay the salaries and compensation of persons and services described in this subdivision.

(C) Classify persons or services described in this subdivision and to adopt schedules of salaries or compensation.

(D) Determine the number of the persons or the amount of the services employed or contracted for as provided in this subdivision.

(E) Determine the nature and extent of the duties of the persons.

The compensation, terms of employment, and discharge of teachers are, however, subject to and governed by the laws relating to employment, contracting, compensation, and discharge of teachers. The compensation, terms of employment, and discharge of bus drivers is subject to and governed by laws relating to employment, contracting, compensation, and discharge of bus drivers. The forms and procedures relating to

the use of computer and data processing equipment in handling the financial affairs of the school corporation must be submitted to the state board of accounts for approval to the end that the services are used by the school corporation when the governing body determines that it is in the best interest of the school corporation while at the same time providing reasonable accountability for the funds expended.

(9) Notwithstanding the appropriation limitation in subdivision (3), when the governing body by resolution considers a trip by an employee of the school corporation or by a member of the governing body to be in the interest of the school corporation, including attending meetings, conferences, or examining equipment, buildings, and installation in other areas, to permit the employee to be absent in connection with the trip without any loss in pay and to refund to the employee or to the member the employee's or member's reasonable hotel and board bills and necessary transportation expenses. To pay teaching personnel for time spent in sponsoring and working with school related trips or activities.

(10) To transport children to and from school, when in the opinion of the governing body the transportation is necessary, including considerations for the safety of the children and without regard to the distance the children live from the school, the transportation to be otherwise in accordance with applicable law.

(11) To provide a lunch program for a part or all of the students attending the schools of the school corporation, including the establishment of kitchens, kitchen facilities, kitchen equipment, lunch rooms, the hiring of the necessary personnel to operate the lunch program, and the purchase of material and supplies for the lunch program, charging students for the operational costs of the lunch program, fixing the price per meal or per food item. To operate the lunch program as an extracurricular activity, subject to the supervision of the governing body. To participate in a surplus commodity or lunch aid program.

(12) To purchase textbooks, to furnish textbooks without cost or to rent textbooks to students, to participate in a textbook aid program, all in accordance with applicable law.

(13) To accept students transferred from other school corporations and to transfer students to other school corporations in accordance with applicable law.

(14) To levy taxes, to make budgets, to appropriate funds, and to disburse the money of the school corporation in accordance with applicable law. To borrow money against current tax collections and otherwise to borrow money, in accordance with IC 21-2-21.

(15) To purchase insurance or to establish and maintain a program of self-insurance relating to the liability of the school corporation or the school corporation's employees in connection with motor vehicles or property and for additional coverage to the extent permitted and in accordance with IC 34-13-3-20. To purchase additional insurance or to establish and maintain a program of self-insurance protecting the school corporation and members of the governing body, employees, contractors, or agents of the school corporation from liability, risk, accident, or loss related to school property, school contract, school or school related activity, including the purchase of insurance or the establishment and maintenance of a self-insurance program protecting persons described in this subdivision against false imprisonment, false arrest, libel, or slander for acts committed in the course of the persons' employment, protecting the school corporation for fire and extended coverage and other casualty risks to the extent of replacement cost, loss of use, and other insurable risks relating to property owned, leased, or held by the school corporation. To:

(A) participate in a state employee health plan under IC 5-10-8-6.6;

(B) purchase insurance; or

(C) establish and maintain a program of self-insurance;

to benefit school corporation employees, including accident, sickness, health, or dental coverage, provided that a plan of self-insurance must include an aggregate stop-loss provision.

(16) To make all applications, to enter into all contracts, and to sign all documents necessary for the receipt of aid, money, or property from the state government, the federal government, or from any other source.

(17) To defend any member of the governing body or any employee of the school corporation in any suit arising out of the performance of the member's or employee's duties for or employment with, the school corporation, if the governing body by resolution determined that the action was taken in good faith. To save any member or employee harmless from any liability, cost, or damage in connection with the performance, including the payment of legal fees, except where the liability, cost, or damage is predicated on or arises out of the bad faith of the member or employee, or is a claim or judgment based on the member's or employee's malfeasance in office or employment.

(18) To prepare, make, enforce, amend, or repeal rules, regulations, and procedures for the government and management of the schools, property, facilities, and activities of the school corporation, the school corporation's agents, employees, and pupils and for the operation of the governing body, which rules, regulations, and procedures may be designated by an appropriate title such as "policy handbook", "bylaws", or "rules and regulations".

(19) To ratify and approve any action taken by a member of the governing body, an officer of the governing body, or an employee of the school corporation after the action is taken, if the action could have been approved in advance, and in connection with the action to pay the expense or compensation permitted under IC 20-26-1 through IC 20-26-5, IC 20-26-7, IC 21-2-19, and IC 21-2-21 or any other law.

(20) To exercise any other power and make any expenditure in carrying out the governing body's general powers and purposes provided in this chapter or in carrying out the powers delineated in this section which is reasonable from a business or educational standpoint in carrying out school purposes of the school corporation, including the acquisition of property or the employment or contracting for services, even though the power or expenditure is not specifically set out in this chapter. The specific powers set out in this section do not limit the general grant of powers provided in this chapter except where a limitation is set out in IC 20-26-1 through IC 20-26-5, IC 20-26-7, IC 21-2-19, and IC 21-2-21 by specific language or by reference to other law.

SECTION 16. IC 20-28-8-6, AS ADDED BY P.L.1-2005, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. A contract entered into by a governing body and its superintendent is subject to the following conditions:

(1) **If the superintendent holds a license under IC 20-28-5**, the basic contract must be in the form of the regular teacher's contract.

(2) The contract must be for a term of at least thirty-six (36) months.

(3) The contract may be altered or rescinded for a new one at any time by mutual consent of the governing body and the superintendent. The consent of both parties must be in writing and must be expressed in a manner consistent with this section and sections 7 through 8 of this chapter.

(4) **If the superintendent holds a license under IC 20-28-5**, the rights of ~~a~~ the superintendent as a teacher under any other law are not affected by the contract."

Page 13, line 32, strike "IC 3-8-1-10.5 IS REPEALED [EFFECTIVE JULY" and insert "**THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2006]: IC 3-8-1-10.5; IC 20-23-2-7.**"

Page 13, delete line 33.

Renumber all SECTIONS consecutively.

(Reference is to HB 1355 January 26, 2006.)

TURNER

The Speaker ordered a division of the House and appointed Representatives Friend and Stilwell to count the yeas and nays. Yeas 42, nays 48. Motion failed.

HOUSE MOTION
(Amendment 1355-3)

Mr. Speaker: I move that House Bill 1355 be amended to read as follows:

Page 11, line 27, delete "governor" and insert **"state superintendent selection commission established by IC 20-19-1.5-2"**.

Page 11, between lines 40 and 41, begin a new paragraph and insert:

"SECTION 12. IC 20-19-1.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]:

Chapter 1.5. State Superintendent Selection Commission

Sec. 1. As used in this chapter, "commission" refers to the state superintendent selection commission established by section 2 of this chapter.

Sec. 2. The state superintendent selection commission is established.

Sec. 3. (a) Whenever there is a vacancy in the office of the state superintendent, the governor shall appoint six (6) individuals to serve on the commission.

(b) Not more than three (3) commission members may be members of the same political party.

Sec. 4. The governor shall designate one (1) of the commission members to be the commission's chair.

Sec. 5. The commission shall meet at the call of the chair.

Sec. 6. (a) Four (4) members of the commission constitute a quorum.

(b) The affirmative votes of at least four (4) commission members are necessary for the commission to take final action on a matter.

Sec. 7. The term of each member of the commission expires when the commission has appointed a state superintendent.

Sec. 8. (a) Each member of the commission who is not a state employee is entitled to receive both of the following:

(1) The minimum salary per diem provided by IC 4-10-11-2.1(b).

(2) Reimbursement for travel expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

(b) Each member of the commission who is a state employee is entitled to reimbursement for travel expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

Sec. 9. The department shall provide staff and administrative support to the commission.

Sec. 10. The commission's expenses shall be paid from appropriations made to the department."

Renumber all SECTIONS consecutively.

(Reference is to HB 1355 as printed January 26, 2006.)

V. SMITH

Motion failed.

HOUSE MOTION
(Amendment 1355-2)

Mr. Speaker: I move that House Bill 1355 be amended to read as follows:

Page 11, line 29, after "Indiana." insert **"The individual selected by the governor to be state superintendent must have all of the following qualifications:**

(1) The individual must hold a bachelor's degree in education.

(2) The individual must hold a license issued under IC 20-28.

(3) The individual must have practical experience as a licensed teacher in a school setting."

(Reference is to HB 1355 as printed January 26, 2006.)

V. SMITH

Upon request of Representatives V. Smith and Cheney, the

Speaker ordered the roll of the House to be called. Roll Call 109: yeas 43, nays 50. Motion failed. The bill was ordered engrossed.

House Bill 1358

Representative Behning called down House Bill 1358 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1358-2)

Mr. Speaker: I move that House Bill 1358 be amended to read as follows:

Page 2, line 14, delete "commissioner of the department of state revenue." and insert **"state budget committee for review and recommendation to the budget agency."**

(d) After the state budget committee has reviewed the designation of the district and made a recommendation to the budget agency concerning the district, the budget agency may approve or disapprove the designation of the district. If the budget agency fails to take action on an ordinance designating a district within one hundred twenty (120) days after the date the ordinance is submitted to the budget committee, the designation of the district by the ordinance is considered approved. If the budget agency approves the designation of a district, the budget agency shall send a copy of its approval and a certified copy of the ordinance designating the district to the commissioner of the department of state revenue."

Page 2, line 17, after "chapter" delete "," and insert **"and the designation of the district is approved by the budget agency under section 6 of this chapter,"**

Page 2, line 21, delete "adoption of the ordinance" and insert **"approval of the district by the budget agency"**.

Page 2, line 28, delete "designated" and insert **"approved by the budget agency"**.

Page 10, line 4, after "SECTION" delete "." and insert **"and approved by the budget agency under IC 6-9-39-6, as added by this act."**

(Reference is to HB 1358 as printed January 26, 2006.)

BEHNING

Motion prevailed. The bill was ordered engrossed.

House Bill 1368

Representative Neese called down House Bill 1368 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

House Bill 1378

Representative Lehe called down House Bill 1378 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

House Bill 1397

Representative Whetstone called down House Bill 1397 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1397-3)

Mr. Speaker: I move that House Bill 1397 be amended to read as follows:

Page 10, between lines 31 and 32, begin a new line block indented and insert:

"(6) Any agency employee, special state appointee, former agency employee, or former special state appointee with final purchasing authority."

Page 10, line 32, before "An" delete "(6)" and insert **"(7)"**.

Page 19, line 2, delete "Assess" and insert **"For a finding made after June 30, 2007, assess"**.

Page 19, line 10, delete "Assess" and insert **"For a finding made after June 30, 2007, assess"**.

(Reference is to HB 1397 as printed January 27, 2006.)

WHETSTONE

Motion prevailed. The bill was ordered engrossed.

OTHER BUSINESS ON THE SPEAKER'S TABLE

HOUSE MOTION

Mr. Speaker: I move that when we do adjourn, we adjourn until Tuesday, January 31, 2006 at 10:00 a.m.

DAVIS

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Thomas be added as coauthor of House Bill 1025.

J. SMITH

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Wolkins, Mays, and J. Lutz be added as coauthors of House Bill 1056.

DUNCAN

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Walorski be added as coauthor of House Bill 1080.

STUTZMAN

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that House Rule 106.1 be suspended for the purpose of adding more than three coauthors and that Representatives Davis, Crawford, and Cherry be added as coauthors of House Bill 1081.

YOUNT

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Thomas be added as coauthor of House Bill 1156.

RICHARDSON

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Thomas be added as coauthor of House Bill 1158.

RICHARDSON

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Walorski be added as coauthor of House Bill 1176.

WOODRUFF

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Thomas be added as coauthor of House Bill 1203.

THOMPSON

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Welch be added as coauthor of House Bill 1259.

KOCH

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Goodin be added as coauthor of House Bill 1287.

DUNCAN

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives VanHaaften and Kuzman be added as coauthors of House Bill 1397.

WHETSTONE

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Leonard be added as cosponsor of Engrossed Senate Bill 258.

ESPICH

Motion prevailed.

Pursuant to House Rule 60, committee meetings were announced.

On the motion of Representative Neese, the House adjourned at 10:40 p.m., this thirtieth day of January, 2006, until Tuesday, January 31, 2006, at 10:00 a.m.

BRIAN C. BOSMA

Speaker of the House of Representatives

M. CAROLINE SPOTTS

Principal Clerk of the House of Representatives